

SHELBY COUNTY, TENNESSEE, RETIREMENT SYSTEM

PLAN D

EFFECTIVE JULY 1, 2011

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TABLE OF CONTENTS

ARTICLE 1	DEFINITIONS	1-1
	Accrued Benefit	1-1
	Active Participant	1-1
	Actuarially Equivalent; Actuarial Equivalence	1-1
	Actuary	1-1
	Annual Benefit	1-1
	Annuity Starting Date	1-1
	Averaging Period	1-1
	Beneficiary	1-2
	Board	1-2
	Certificate; Prior Service Certificate	1-2
	City	1-2
	City Plan	1-2
	City-to-County Transfer Employee	1-2
	City Transfer Service	1-3
	COLA	1-3
	Commission; County Commission	1-3
	Commissioner	1-3
	Consumer Price Index	1-3
	County	1-3
	County-to-City Transfer Employee	1-3
	County Transfer Service	1-4
	Credited Service	1-4
	Day	1-4
	Deferred Vested Retirement Pension	1-4
	Dependent Child	1-4
	Designated Beneficiary	1-5
	Disability	1-5
	Disability Contract	1-5
	Disability Contract Termination Date (ADEA I)	1-5
	Disabled Participant	1-5
	Early Retirement Date	1-5
	Early Retirement Pension	1-6
	Earnings	1-6
	Effective Date	1-6
	Eligible Employee	1-6
	Eligible Retirement Plan	1-9
	Eligible Rollover Distribution	1-10
	Employee	1-10
	Employer	1-10
	Final Average Earnings	1-10
	Former Participant	1-10
	Full-Time Employee	1-10
	Fund; Trust Fund	1-11
	Funding Rate	1-11

Governmental Entity	1-11
IRC	1-11
IRC 401(a)(17) Compensation Limit	1-11
Insured Disabled Participant	1-11
Insuror	1-11
Interruption of Service	1-11
Life Annuity Equivalent	1-11
Life Only Annuity	1-11
Limitation Year	1-11
Line of Duty Death	1-11
Month	1-12
Named Beneficiary	1-12
Normal Retirement Date	1-12
Normal Retirement Pension	1-12
Optional Pension	1-12
Participant	1-12
Participant Contributions Account	1-13
Part-Time Employee	1-13
Pension	1-13
Pensioned Participant	1-14
Plan; Plan D	1-14
Plan A	1-14
Plan B	1-14
Plan C	1-14
Plan Year	1-14
Present Value of Accrued Benefit	1-14
Prior Service Certificate	1-14
Public Safety Early Retirement Date	1-14
Public Safety Early Retirement Pension	1-14
Public Safety Employee	1-15
Public Safety Normal Retirement Date	1-16
Public Safety Normal Retirement Pension	1-16
Public Safety Pension	1-16
Public Safety Service	1-16
Qualified Military Service	1-16
Required Beginning Date	1-16
Required Contribution	1-16
Retirement Pension	1-16
Retirement System	1-16
Service	1-16
Spouse	1-16
Standard Early Retirement Date	1-17
Standard Normal Retirement Pension	1-17
Standard Normal Retirement Date	1-17
Standard Normal Retirement Pension	1-17
State	1-17
Survivor Pension	1-17
System	1-17
Temporary Employee	1-17

Termination	1-17
Total Credited Service	1-17
Trust	1-17
Trust Agreement	1-17
Trust Fund	1-17
 ARTICLE 2 PARTICIPATION	 2-1
2.1 <u>Participation as a Condition of</u>	
<u>Employment</u>	2-1
2.2 <u>Initial Participation</u>	2-1
2.3 <u>Enrollment Procedures</u>	2-1
2.3.1 <u>In General</u>	2-1
2.3.2 <u>City-to-County Transfer Employees</u>	2-1
2.4 <u>Agreement to Furnish Information;</u>	
<u>Waiver of Confidentiality</u>	2-1
2.5 <u>Continued Participation</u>	2-1
 ARTICLE 3 CREDITED SERVICE	 3-1
3.1 <u>Credited Service</u>	3-1
3.1.1 <u>Service Under Plan A, Plan B, or Plan C</u>	3-1
3.1.2 <u>Service Otherwise Attributable to Certain</u>	
<u>Accrued Payments upon Termination Not</u>	
<u>Included in Credited Service</u>	3-1
3.1.3 <u>Extensive Unpaid Absences</u>	3-1
3.1.4 <u>Exclusion of Service While Not an</u>	
<u>Eligible Employee</u>	3-1
3.1.5 <u>Positions Without Hourly Standards</u>	3-1
3.2 <u>Interruption of Service</u>	3-2
3.3 <u>Reemployed Participants</u>	3-2
3.4 <u>Part-Time Employees</u>	3-3
3.5 <u>Commissioners</u>	3-3
3.6 <u>City-to-County Transfer Employees</u>	3-3
 ARTICLE 4 RETIREMENT PENSIONS AND OTHER RETIREMENT BENEFITS	 4-1
4.1 <u>Normal Retirement Pensions</u>	4-1
4.1.1 <u>Public Safety Normal Retirement Pensions</u>	4-1
4.1.1.1 <u>Eligibility</u>	4-1
4.1.1.2 <u>Calculation and Payment of Pension</u>	4-1
4.1.2 <u>Standard Normal Retirement Pensions</u>	4-1
4.1.2.1 <u>Eligibility</u>	4-1
4.1.2.2 <u>Calculation and Payment of Pension</u>	4-1
4.2 <u>Normal Retirement Pension Following</u>	
<u>Disability Contract Termination</u>	
<u>Date (ADEA I)</u>	4-2
4.3 <u>Early Retirement Pensions</u>	4-2

4.3.1	<u>Public Safety Early Retirement Pension</u>	4-2
4.3.1.1	<u>Eligibility</u>	4-2
4.3.1.2	<u>Calculation and Payment of Pension</u>	4-2
4.3.2	<u>Standard Early Retirement Pension</u>	4-3
4.3.2.1	<u>Eligibility</u>	4-3
4.3.2.2	<u>Calculation and Payment of Pension</u>	4-3
4.4	<u>Deferred Vested Retirement Pension-</u>	
	<u>Table DVRP</u>	4-4
4.4.1	<u>Eligibility</u>	4-4
4.4.2	<u>Calculation and Payment of Pension</u>	4-4
4.5	<u>Benefit Calculations for Governmental</u>	
	<u>Transfer Employees</u>	4-4
4.5.1	<u>City-to-County Transfer Employees</u>	4-5
4.5.2	<u>County-to-City Transfer Employees</u>	4-5
4.5.3	<u>Appropriate Retirement Pension²</u>	4-5
4.5.4	<u>Multiple Transfers²</u>	4-5
4.6	<u>Lump Sum Payments</u>	4-5
4.6.1	<u>Mandatory Cash-Outs</u>	4-5
4.6.2	<u>Optional Cash-Outs</u>	4-6
4.6.2.1	<u>Terminated Participant Entitled to Deferred</u>	
	<u>Vested Pension</u>	4-6
4.6.2.2	<u>Surviving Spouse Entitled to Spousal Survivor</u>	
	<u>Pension</u>	4-6
4.6.3	<u>Time for Lump Sum Payment</u>	4-6
4.6.3.1	<u>To Terminated Participants</u>	4-6
4.6.3.2	<u>To Surviving Spouses</u>	4-7
4.6.4	<u>Calculation of Benefit</u>	4-7
4.7	<u>Optional Pensions</u>	4-7
4.7.1	<u>Election and Revocation of Election</u>	4-7
4.7.2	<u>Actuarial Equivalence</u>	4-7
4.7.3	<u>Forms of Optional Pensions</u>	4-7
4.7.3.1	<u>Option A - Joint and Survivor Annuity</u>	4-8
4.7.3.2	<u>Option B - Life Only with a 10-Year</u>	
	<u>Certain Payment</u>	4-8
4.7.3.3	<u>Option C - Life Only Annuity</u>	4-8
4.7.3.4	<u>Option D - Special Form Option</u>	4-8
4.8	<u>[Reserved]</u>	4-9
4.9	<u>Repayment of Distributions with Interest</u>	
	<u>upon Reemployment</u>	4-9
4.9.1	<u>Elective Repayment</u>	4-9
4.9.2	<u>Method of Repayment</u>	4-9
4.10	<u>Minimum Distribution Rules under IRC</u>	
	<u>401(a)(9)</u>	4-9
4.10.1	<u>Required Beginning Date</u>	4-9
4.10.2	<u>Duration of Benefits</u>	4-9
4.10.3	<u>Payments after Death of Participant</u>	4-10
4.10.3.1	<u>Payments Begun Before Death</u>	4-10
4.10.3.2	<u>Payments Not Begun Before Death</u>	4-10
4.11	<u>Ineligibility for Benefits While Actively</u>	

	<u>Employed</u>	4-11
4.11.1	<u>Suspension of Retirement Pension</u>	4-11
4.11.2	<u>Exception for Certain Temporary Employees</u>	4-11
4.11.3	<u>Exception for Certain Pensioned Participants Who Are Election Commissioners</u>	4-11
ARTICLE 5 DISABILITY PENSIONS 5-1		
5.1	<u>No Disability Pensions Payable under This Plan</u>	5-1
5.2	<u>Ordinary Disability Pension for County-to-City Transfer Employee</u>	5-1
5.3	<u>Line of Duty Disability of County-to-City Transfer Employee</u>	5-1
ARTICLE 6 SURVIVOR PENSIONS 6-1		
6.1	<u>Death of Active Vested Participant; Line of Duty Death; Death of Disabled Participant</u>	6-1
6.1.1	<u>Dependent Children</u>	6-1
6.1.2	<u>Surviving Spouse</u>	6-1
6.1.2.1	<u>Participant with Fewer Than 15 Years of Credited Service</u>	6-1
6.1.2.2	<u>Participant with Fifteen or More Years of Credited Service</u>	6-1
6.1.3	<u>Named Beneficiary Other Than Surviving Spouse</u>	6-2
6.1.4	<u>Benefit Calculations for Governmental Transfer Employees</u>	6-2
6.1.4.1	<u>Line of Duty Death</u>	6-2
6.1.4.2	<u>Pensions to Dependent Children²</u>	6-3
6.1.4.3	<u>Spousal Survivor Pensions</u>	6-3
6.2	<u>Survivor Benefits upon Death of a Participant After Termination If Not Previously Receiving Disability Pension</u>	6-3
6.2.1	<u>Death While Receiving a Retirement Pension</u>	6-3
6.2.1.1	<u>Spousal Survivor Pension</u>	6-3
6.2.1.2	<u>Optional Pension</u>	6-3
6.2.1.3	<u>Pension Based on Life Annuity Equivalent of Participant's Alternate Benefit Accrual Account</u>	6-4
6.2.2	<u>Death Before Receipt of Retirement Pension</u>	6-4
6.3	<u>Benefits Payable If Participant Required to Receive Mandatory Cash-Out Dies before Repayment</u>	6-4

6.4	<u>[Reserved]</u>	6-4
6.5	<u>[Reserved]</u>	6-4
6.6	<u>Spousal Survivor Pension Option</u>	6-4
6.7	<u>Payments to or for the Benefit of</u> <u>Dependent Children</u>	6-4
6.8	<u>Time for Payment of Survivor Pensions</u>	6-5
ARTICLE 7 MISCELLANEOUS BENEFIT PROVISIONS 7-1		
7.1	<u>Application for Benefits</u>	7-1
7.1.1	<u>Participant's Certification of Marital</u> <u>Status</u>	7-1
7.1.2	<u>Spouse's Proof of Marital Status</u>	7-1
7.1.3	<u>Birth Certificates</u>	7-1
7.2	<u>Proration of Pensions for Partial Months</u>	7-2
7.3	<u>Pension Formulas; Benefit Tables;</u> <u>Interpolations</u>	7-2
7.4	<u>[Reserved]</u>	7-2
7.5	<u>Cost-of-Living Adjustments</u>	7-2
7.5.1	<u>Application to Certain Pensions</u>	7-2
7.5.2	<u>Amount of COLAs</u>	7-2
7.5.2.1	<u>In General</u>	7-3
7.5.2.2	<u>Further Limitations</u>	7-3
7.6	<u>Direct Transfer of Eligible Rollover</u> <u>Distribution</u>	7-3
7.6.1	<u>Participant's Election</u>	7-3
7.6.2	<u>Automatic Direct Transfer of Mandatory</u> <u>Distribution</u>	7-4
7.6.3	<u>Notice and Notice Procedure</u>	7-4
7.7	<u>Limitation on Benefits in Compliance</u> <u>with IRC 415</u>	7-5
7.7.1	<u>Annual Benefit Not to Exceed Maximum</u> <u>Amount Permitted Under IRC 415</u>	7-5
7.7.2	<u>Incorporation by Reference of the IRC 415</u> <u>Limitations</u>	7-5
7.7.3	<u>Grandfathered Limitations</u>	7-5
7.8	<u>Named Beneficiaries</u>	7-5
7.8.1	<u>Designation</u>	7-5
7.8.2	<u>Spousal Rights</u>	7-6
7.8.3	<u>Default Named Beneficiaries</u>	7-6
ARTICLE 8 FUNDING OF PLAN; PARTICIPANT ACCOUNTS 8-1		
8.1	<u>Contributions Made to Trust Fund</u>	8-1
8.2	<u>Employer Contributions</u>	8-1
8.3	<u>Participant Contributions</u>	8-1
8.3.1	<u>In General</u>	8-1
8.3.2	<u>Required Contributions</u>	8-1
8.3.2.1	<u>Amount</u>	8-1

8.3.2.2	<u>"Pick-Up"</u>	8-1
8.3.3	<u>"Make-Up" Contributions Relating to</u>	
	<u>Qualified Military Service</u>	8-1
8.4	<u>Participant Contributions Accounts</u>	8-2
ARTICLE 9 AMENDMENT AND TERMINATION 9-1		
9.1	<u>Amendment of Plan</u>	9-1
9.1.1	<u>No Reduction of Accrued Benefits;</u>	
	<u>No Contract</u>	9-1
9.1.2	<u>Amendment Procedure; Recommendation of</u>	
	<u>the Board</u>	9-1
9.1.3	<u>Actuarial Impact Letter</u>	9-1
9.1.4	<u>Adoption by the County Commission</u>	9-1
9.1.5	<u>Maintenance of Fully Integrated Plan</u>	
	<u>Document</u>	9-2
9.2	<u>Termination of Plan</u>	9-2
9.2.1	<u>Closing of Participation</u>	9-2
9.2.2	<u>Termination of Plan</u>	9-2
ARTICLE 10 GENERAL PROVISIONS 10-1		
10.1	<u>Administration of the Plan</u>	10-1
10.2	<u>Headings</u>	10-1
10.3	<u>Gender and Number</u>	10-1
10.4	<u>Legal Incompetence</u>	10-1
10.5	<u>Benefits Exempt from Taxation, Execution</u>	
	<u>or Assignment; Exceptions</u>	10-1
10.6	<u>Intent to Constitute a Qualified Plan</u>	10-2
ARTICLE 11 OVERSIGHT PROVISIONS 11-1		
SCHEDULE 1	FUNDING RATE; ACTUARIAL ASSUMPTIONS FOR CALCULATION OF OPTIONAL PENSIONS AND PRESENT VALUES OF ACCRUED BENEFITS	
SCHEDULE 2	INDEX OF RESOLUTIONS AS FOOTNOTED	
APPENDICES		
Table ERP-S; Table ERP-PS		
Table DVRP		

ARTICLE 1
DEFINITIONS

As used in this Plan, the following words and phrases shall have the respective meanings set forth below, unless otherwise clearly required by the context. Other definitions not defined in this Article may appear in the Plan.

"Accrued Benefit" means the Pension to which a Participant would be entitled upon his Standard Normal Retirement Date (or, if earlier, his Public Safety Normal Retirement Date, if he has completed all of the requirements for receiving a Public Safety Normal Retirement Pension on the date the calculation is made), calculated in accordance with 4.1, based on his Final Average Earnings and Credited Service, each determined as of the date of amendment of the Plan, as of the date of Termination or as of any other relevant date. The calculation of a Participant's "Accrued Benefit" shall not take into consideration any future COLAs.¹

"Present Value of Accrued Benefit," as of any relevant date, is the single sum Actuarial Equivalent of a Participant's Accrued Benefit.

"Active Participant" See "Participant."

"Actuarially Equivalent" or "Actuarial Equivalence" means a benefit or an amount having the same actuarial value as another stated benefit or amount, as determined by the Actuary pursuant to the mortality tables and interest rates set forth on Schedule 1.¹

"Actuary" means a qualified actuary selected by the Board of Administration who is a member of the American Academy of Actuaries or who is enrolled by the Joint Board for Enrollment of Actuaries and who performs the annual actuarial valuations and other computations required under the System.

"Annual Benefit" shall have the meaning provided under Treasury Regulation 1.415(b)-1(b).

"Annuity Starting Date" means the particular day of the calendar month with respect to which a Participant's first payment of a Retirement Pension is made.

"Averaging Period" shall mean a Participant's period of total Credited Service, not in excess of 60 consecutive calendar months (whether or not the Participant received Credited Service for all of such calendar months), over which his Final Average Earnings is as high as possible. Notwithstanding the foregoing, in the

case of either a County-to-City Transfer Employee or a City-to-County Transfer Employee whose last transfer was on or before December 31, 2012², his Averaging Period shall include not only calendar months completed for his last employer but, if necessary to add up to 60 consecutive calendar months, shall include calendar months completed for his prior employer, whether or not his Final Average Earnings during such 60 consecutive calendar months is his overall highest; otherwise, such Employee's Averaging Period shall include only Credited Service for the County.²

"Beneficiary" means each person who becomes entitled to benefits as a result of the Participant's death and shall include, to the extent applicable, his Dependent Children, his Spouse, and his Named Beneficiary.

"Named Beneficiary" is defined in 7.8.

"Designated Beneficiary" shall mean the individual who is designated as a beneficiary under the Plan in accordance with IRC 401(a)(9) and the Treasury Regulations thereunder.

"Board" means the Board of Administration and Trust of the Shelby County Retirement System, as more fully set forth in that separate County resolution titled "Administration and Trust Agreement of the Shelby County, Tennessee, Retirement System."

"Certificate" or "Prior Service Certificate" shall mean a document setting forth the Credited Service earned by a Participant while a participant of Plan A, Plan B, and/or Plan C.

"City" means the City of Memphis, Tennessee.

"City Plan" means the 1978 Plan under the City of Memphis Retirement System under City Ordinance Chapter 25, Articles I through VII other than Article VII, Division 1.

"City-to-County Transfer Employee" means a Participant in this Plan who was last a participant or member of the City Plan prior to becoming an Employee of the County and who has become an Employee of the County as a direct result of one or more of the following events:

- (a) the legal consolidation of any agency, board, commission, or other entity, regardless of its name, which was being administered by the City in whole or in part prior to such administration being assumed by the County;

- (b) the cessation of operation or function by any agency, board, commission, or other entity, regardless of its name, which was being administered by the City in whole or in part prior to such cessation;
- (c) the direct transfer of the Employee to the County for the convenience of County government, provided such transfer receives the approval of the Board.¹

"City Transfer Service" shall mean creditable service, to the date of transfer from the City, determined in accordance with the terms of the City Plan as applicable to such Employee immediately prior to the date of transfer; provided, however, that in computing such service, no credit shall be given for periods of time for which the Employee either received a refund of contributions or for other periods of time not counted as creditable service in accordance with the terms of the City Plan.

"COLA" means cost of living adjustment based in part upon the Consumer Price Index; the COLA applies to annual adjustments in the amounts of certain Pensions.

"Commission" or "County Commission" means the Shelby County, Tennessee, Board of Commissioners.

"Commissioner" means a member of the Shelby County Board of Commissioners.

"Consumer Price Index" shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers as measured by the United States City Average for all items, published by the Bureau of Labor Statistics, and adjusted as may be necessary by the Actuary for any change in the index or its base.

"County" means Shelby County, Tennessee.

"County-to-City Transfer Employee" shall mean a person who was a Participant in this Plan prior to becoming an employee of the City and who became an employee of the City as a direct result of one, or any combination, of the following events:

- (a) the legal consolidation of any agency, board, commission, or other entity, regardless of its name, which was being administered by the County in whole or in part prior to such administration being assumed by the City;
- (b) the cessation of operation or function by any agency, board, commission, or other entity, regardless of its

name, which was being administered by the County in part or in whole prior to such cessation;

- (c) the direct transfer of the employee to the City for the convenience of City government, provided such transfer receives the approval of the Board.¹

"County Transfer Service" means all Credited Service of a County Employee prior to the date of his transfer from County to City employment, determined as if such County Employee were then eligible for a Deferred Vested Retirement Pension (whether or not his years of Credited Service were then sufficient) or an Early Retirement Pension.

"Credited Service" is defined in 3.1.

"Total Credited Service" shall mean (a) the combination of a City-to-County Transfer Employee's City Transfer Service and Credited Service earned while a Participant in this Plan (and in Plan A and/or Plan B, if such Participant was a participant in either or both such plans who ultimately transferred to this Plan) and (b) the combination of an County-to-City Transfer Employee's County Transfer Service and years of service earned while a Participant in the City Plan.

"Day" shall mean a twenty-four hour day commencing at midnight and ending at 11:59 p.m.

"Deferred Vested Retirement Pension" See "Pension."

"Dependent Child" means a legal child of a Participant or of his Spouse, whether adopted or natural and whether born in or out of a lawful marriage, who at the relevant time was or is dependent upon the Participant or upon the Participant and his Spouse for at least 50% of the child's needed support and maintenance and either (a) is unmarried and has not attained the age of 19; (b) has attained the age of 19 but has not attained the age of 23 and is a full-time student at a school or university accredited according to standards approved by the Board, or (c) is over age 19, is unmarried, and is permanently and severely handicapped as determined by the Board. A Dependent Child shall include a legal child of the Participant who is born within 9 ½ months after the Participant's death, and such child shall be presumed to have been dependent upon the Participant for at least 50% of his needed support and maintenance until he loses his status as a Dependent Child pursuant to the preceding provisions. The "relevant time" shall be each consecutive day after a Participant's death upon which a Survivor Pension may be paid as a result of his death. Once a child of a Participant or of his

Spouse has lost his status as a Dependent Child for any reason, such child may never again become a Dependent Child.

"Designated Beneficiary" See "Beneficiary."

"Disability" means the definition contained in the Disability Contract.

"Disability Contract" means the long-term disability insurance contract maintained by the County with the Insuror covering certain classes and categories of County employees.

"Disability Contract Termination Date (ADEA I)" is determined as follows:

Participant's Age at Time of <u>Disability</u>	Benefit Duration
Under age 60	To age 65, but not less than 60 months
60	60 months
61	48 months
62	42 months
63	36 months
64	30 months
65	24 months
66	21 months
67	18 months
68	15 months
69	12 months

"Disabled Participant" means a Participant who is under a Disability incurred while an Active Employee and who is an Insured Disabled Participant.

"Insured Disabled Participant" means a Participant whom the Insuror determines to have incurred Disability and shall include both (a) Participants receiving payments under the Disability Contract and (b) Participants who have not yet begun to receive benefits under the Disability Contract solely because the elimination period under the Disability Contract has not elapsed, so long as the Participant ultimately receives benefits under the Disability Contract or sooner dies. An Insured Disabled Participant shall remain a Disabled Participant so long as he is entitled to receive payments under the Disability Contract.

"Early Retirement Date" includes "Public Safety Early Retirement Date" and "Standard Early Retirement Date."

"Public Safety Early Retirement Date" means, for a Participant who is entitled to a Public Safety Early Retirement Pension, the date upon which he attains age 50 having then completed at least seven and one-half (7 ½) years of Credited Service.

"Standard Early Retirement Date" means, for a Participant who is not entitled to a Public Safety Early Retirement Pension, the date upon which he attains age 62 or, if later, the date upon which he has completed at least seven and one-half (7 ½) years of Credited Service.

"Early Retirement Pension" See "Pension."

"Earnings" paid to the Participant by the Employer (or in the case of a City-to-County Transfer Employee or a County-to-City Transfer Employee to which the definition of "Earnings" is relevant, by the City)² for the relevant period means compensation within the meaning of IRC 3401(a) (for purposes of income tax withholding at the source), as reportable in Box 1 of the Participant's W-2 form, including (i) base salary, (ii) shift differentials, (iii) hazardous duty pay, and (iv) longevity pay: (a) increased by compensation contributed or deferred by the Employer at the election of the Participant and not includable in Box 1 of the Participant's W-2 by reason of IRC 125 (cafeteria plans), IRC 402(g)(3) (deferrals under IRC 401(k) and 403(b) plans), or IRC 457 (non-qualified deferred compensation plans of state and local governments and tax-exempt organizations); and (b) decreased by (i) overtime earnings, (ii) payment for accumulated unused sick days, (iii) all other extraordinary compensation not included in the salary scale of the Participant's position and not otherwise stated to be included in the term "Earnings," and (iv) the excess of his Earnings (calculated without taking into consideration this subparagraph (iv)) over the IRC 401(a)(17) Compensation Limit.¹ Notwithstanding the foregoing, if the Participant is otherwise eligible under the terms of the Plan, then for purposes of determining a Participant's Accrued Benefit and his Final Average Earnings, the "Earnings" of a Participant during Qualified Military Service shall be (x) the Earnings the Participant would otherwise have received during the period of Qualified Military Service, determined based on the rate of compensation the Participant would have received from the Employer but for absence during the period of Qualified Military Service or (y) if the compensation the Participant would have received during such period was not reasonably certain, the Participant's average Earnings during the 12-month period immediately preceding the Qualified Military Service (or, if shorter, the period of employment immediately preceding the Qualified Military Service.

"Effective Date" means July 1, 2011.

"Eligible Employee" means:

(a) Each County Employee,

specifically including:

- * Each person elected to County office by a popular vote of the citizens of the County (and each person appointed in an interim appointment to any of such offices), except for each such person who has the right under Tennessee Code Annotated Section 8-35-116 to participate in the Tennessee Consolidated Retirement System and who so elects.
- * Each person appointed to County office or position by the County Commission, the County Mayor, or any other elected official of the County and whose services are performed under the administrative control of the County.
- * Each person employed under any public program, agency, board, commission, or entity by any other name consisting of, established by, and/or maintained by any Governmental Entity, and in which the County jointly participates or is a part, whether or not such person is paid by the County directly or indirectly or not at all, and whether or not the County has some or all administrative control, if and only if the County is specifically obligated under a contract with such Governmental Entity or by State and/or County legislation to provide such person participation in the Plan, subject to limitations or restrictions as to such participation in such contract or legislation. Such persons include (a) those certain individuals whose services are performed for the State District Attorney General for Shelby County but whose compensation and benefits are fully paid or partially subsidized by the County pursuant to State and County legislation; and (b) those certain individuals whose services are performed at the State Agricultural Extension office but whose compensation and benefits

are fully paid or partially subsidized by the County pursuant to State and County legislation.

- * The Chairman of the Shelby County Jury Commission.
- * Each person employed under any public program, agency, board, commission, or entity by any other name consisting of, established by, and/or maintained by any Governmental Entity, and in which the County jointly participates or is a part, whether or not such person is paid by the County directly or indirectly or not at all, and whether or not the County has some or all administrative control, if and only if the County is specifically obligated under a contract which such Governmental Entity or by State and/or County legislation to provide such person participation in the Plan, subject to limitations or restrictions as to such participation in such contract or legislation to provide such person participation in the Plan, subject to limitations or restrictions as to such participation in such contract or legislation. Such persons include (a) those certain individuals whose services are performed for the State District Attorney General for Shelby County but whose compensation and benefits are fully paid or partially subsidized by the County pursuant to State and County legislation; and (b) those certain individuals whose services are performed at the State Agricultural Extension office but whose compensation and benefits are fully paid or, prior to January 1, 2004, partially subsidized by the County pursuant to State and County legislation.

but specifically excluding:

- * Any person employed by or paid by the Board of Education of Shelby County.
- * Any person employed under any public program, agency, board, commission, or entity by any other name consisting of, established by, and/or maintained by any Governmental Entity,

and in which the County jointly participates or is a part, whether or not such person is paid by the County directly or indirectly or not at all, and whether or not the County has some or all administrative control but only if the County is not specifically obligated under a contract with such Governmental Entity or by State and/or County legislation to provide such person participation in the Plan, subject to limitations or restrictions as to such participation in such contract or legislation.

- * Each person who has (or had) a right to elect, and has so elected, pursuant to the contractual terms of employment or otherwise, to participate in the Social Security OASDI program in lieu of participation in the Plan.
- * Each person who would otherwise meet the definition of an Eligible Employee but who is identified and classified for payroll purposes as a "Temporary Employee" and is, therefore, covered by the Social Security OASDI program.

(b) The Employees of each other Employer to the extent set forth in any State and/or County legislation or in any written contract to which the County and such other Employer are parties. Such persons include, but shall not necessarily be limited to, certain former County employees who became employees of the Shelby County Health Care Corporation in 1985 pursuant to County legislation.

(c) Employees of the Shelby County Governmental Library Commission (also known as the "Law Library Commission") whose compensation is paid through the County's payroll system.

(d) Employees of Projects, Inc., an IRC 501(c)(3) organization controlled by the Memphis and Shelby County Film and Television Commission, whether or not the compensation of such persons is paid through the County's payroll system.

Notwithstanding all of the foregoing in this definition, "Eligible Employee" shall not include any person who is actively accruing Credited Service as a member of Plan A, Plan B, or Plan C.

"Eligible Retirement Plan" means: an individual retirement account as described in IRC 408(a); an individual retirement annuity as described in IRC 408(b) (other than an endowment contract); an annuity plan as described in IRC 403(a) [except as a recipient of non-taxable distributions]; another qualified plan/trust described in IRC 401(a) that is exempt from tax under IRC 501(a) and that accepts rollover distributions [and, in the case of a recipient of non-taxable distributions, that separately accounts for amounts so transferred and the earnings thereon], an eligible deferred compensation plan described in IRC 457(b) which is maintained by an eligible employer described in IRC 457(e)(1)(A) [except as a recipient of non-taxable distributions], and an annuity contract described in IRC 403(b).

"Eligible Rollover Distribution" means any distribution to which a Participant or Named Beneficiary is entitled other than a distribution of substantially equal periodic payments over the life or life expectancy of the Participant (or joint life or joint life expectancies of the Participant and his beneficiary) or a distribution over a period certain of 10 years or more. Amounts required to be distributed under IRC 401(a)(9) are not Eligible Rollover Distributions.

"Employee" means (a) any person who performs services for the County, is paid for such services by the County, and receives from the County on an annual basis a federal form W-2, (b) any person who performs services for another Employer that is a Governmental Entity, is paid in whole or in part by the County, and receives from the County on an annual basis a federal form W-2; and (c) any person who performs services for another Employer which is a Governmental Entity, is paid in whole or in part by such other Employer, and receives from such other Employer on an annual basis a federal form W-2.

"Employer" means (a) the County and, (b) where applicable, any other Governmental Entity whose employees are identified in the definition of "Eligible Employee" as permitted to participate in the Plan.

"Final Average Earnings" means, for a Participant who has at least 60 months of Credited Service in his Averaging Period, a monthly amount equal to the total Earnings in his Averaging Period divided by 60. For a Participant who has fewer than 60 months of Credited Service in his Averaging Period, Final Average Earnings means the Employee's total Earnings in his Averaging Period divided by the number of Months of Credited Service in his Averaging Period. In the case of a City-to-County Transfer Employee or a County-to-City Transfer Employee whose last transfer was on or before December 31, 2012, Credited Service

shall include service for the City that would have been Credited Service for the County if it had been performed for the County; otherwise, such Employee's Credited Service shall include only service for the County.²

"Former Participant" See "Participant."

"Full-Time Employee" means any County Employee who is identified and classified for payroll purposes as a "Full-Time Employee."

"Fund" or "Trust Fund" shall mean the assets maintained under the System, in accordance with the Trust Agreement of the Shelby County, Tennessee Retirement System.

"Funding Rate" means the interest rate used by the Actuary to calculate the County's contribution requirement to the Plan for a Plan Year, which interest rate includes consideration of the expected asset return of the Trust Fund and the discounting of future benefit payments. The Funding Rate shall be set forth on Schedule 1.

"Governmental Entity" means the County, the United States of America, the State of Tennessee, the City of Memphis, and/or any agency or instrumentality of any of the foregoing.

"IRC" means the Internal Revenue Code of 1986, as amended.

"IRC 401(a)(17) Compensation Limit" means, for Plan Years beginning in and after 2011, \$200,000, as adjusted in the manner provided in IRC 401(a)(17)(B) to reflect all cost-of-living increases after the year 2001 (the IRC 401(a)(17) Compensation Limit being \$245,000 for the year 2010).

"Insured Disabled Participant" See "Disabled Participant."

"Insuror" means the licensed insurance company that has issued the Disability Contract and that administers the same.

"Interruption of Service" is defined in 3.2.

"Life Annuity Equivalent" means a monthly payment derived by converting the Participant's Participant Contributions Account into an Actuarially Equivalent Accrued Benefit.

"Life Only Annuity" means an annuity payable monthly for the life of the annuitant.

"Limitation Year" means the calendar year.

"Line of Duty Death" means death that is a direct result, exclusive of all external, unrelated causes, of an accident or activity occurring in the actual performance of duties arising out of and in the course of employment for the Participant's Employer. Furthermore, if any Participant who is a firefighter or a law enforcement officer to whom the provisions of Tennessee Code Annotated Section 7-51-201 (popularly known as the "Heart and Lung Act") applies dies as a result of any condition or impairment of health caused by hypertension or heart disease, such death shall be presumed to be a Line of Duty Death unless the contrary is shown by competent medical evidence or unless such condition or disease was revealed in his pre-employment examination as existing at the time of his employment.⁸

"Month" shall mean, for purposes of computing benefits, a thirty (30) day period.

"Named Beneficiary" See definition of "Beneficiary."

"Normal Retirement Date" includes "Public Safety Normal Retirement Date" and "Standard Normal Retirement Date."

"Public Safety Normal Retirement Date" means, for a Participant who is entitled to a Public Safety Normal Retirement Pension, the date upon which he attains age 55 having then completed at least seven and one-half (7 ½) years of Credited Service.

"Standard Normal Retirement Date" means, for a Participant who is not entitled to a Public Safety Normal Retirement Pension, the date upon which he attains age 67 or, if later, the date upon which he has completed at least seven and one-half (7 ½) years of Credited Service.

"Normal Retirement Pension" See "Pension."

"Optional Pension" means a form of pension selected by the Participant under 4.7 in lieu of a Retirement Pension and all Survivor Pensions and other Survivor benefits.

"Participant" unless the context clearly indicates otherwise, means an individual who is or was an Eligible Employee, who has met all the requirements for participating in the Plan, and who is either an Active Participant, a former Active Participant who is engaged in Qualified Military Service, a Disabled Participant, a Pensioned Participant, or a Terminated Participant.

"Active Participant" is a Participant who is actively employed by and performing Service for his Employer at the relevant time; provided that a Participant who dies while performing Qualified Military Service shall be deemed to

have resumed his status as an Active Participant the day prior to his death for purposes of determining whether and to what extent his Survivors are entitled to benefits under this Plan.

"Former Participant" is a Terminated Employee who at the time of his Termination (a) was an Active Participant, (b) is not entitled to a Deferred Vested Retirement Pension, and (c) has the right to add to his Credited Service if he becomes reemployed as an Eligible Employee pursuant to 3.3.

"Pensioned Participant" is a former Active Participant who is actually receiving a Pension from the Plan.

"Terminated Participant" is a Terminated Employee who is entitled to receive a Deferred Vested Retirement Pension or a mandatory cash-out under 4.6 but who has not yet begun to receive such Pension or has not yet received such cash-out.

"Participant Contributions Account" means that separate bookkeeping account maintained for each Participant pursuant to and more particularly described in 8.4.

"Part-Time Employee" means any County Employee who is identified and classified for payroll purposes as a "Part-Time Employee."

"Pension" means a benefit payment to which a Participant or a Beneficiary is entitled under the Plan.

"Deferred Vested Retirement Pension" means a Pension earned by a Terminated Participant who was under the age of 55 at the time of his Termination but who had completed at least seven and one-half (7 ½) years of Credited Service prior to his Termination.

"Early Retirement Pension" means a Pension payable to a Participant whose Termination occurs on or after his Early Retirement Date and includes a Public Safety Early Retirement Pension and a Standard Early Retirement Pension.

"Public Safety Early Retirement Pension" means an Early Retirement Pension for which a Public Safety Employee who has attained his Public Safety Early Retirement Date and who meets the eligibility requirements of 4.3.1.1 is entitled pursuant to 4.3.1.

"Standard Early Retirement Pension" means an Early Retirement Pension for which a Participant who has

attained his Standard Early Retirement Date is entitled pursuant to 4.3.2.

"Normal Retirement Pension" means a Pension payable to a Participant whose Termination occurs on or after his Normal Retirement Date and includes a Public Safety Normal Retirement Pension and a Standard Normal Retirement Pension.

"Public Safety Normal Retirement Pension" means a Normal Retirement Pension for which a Public Safety Employee who has attained his Public Safety Normal Retirement Date and who meets the eligibility requirements set forth in 4.1.1.1 is entitled under 4.1.1.

"Standard Normal Retirement Pension" means a Normal Retirement Pension for which a Participant who has attained his Standard Normal Retirement Date is entitled pursuant to 4.1.2.

"Survivor Pension" means a Pension to which a Participant's survivors (including his Dependent Child(ren), his Spouse, and/or his Named Beneficiary) are entitled under Article 6 as a result of the Participant's death.³

"Pensioned Participant" See "Participant."

"Plan" or "Plan D" means the Shelby County Retirement System Plan D, effective July 1, 2011, and shall include all restatements and amendments thereto.

"Plan A" means the Shelby County Retirement System Plan A, originally effective December 1, 1978, and which was closed to new County Employees engaged on and after March 1, 2005.

"Plan B" means the Shelby County Retirement System Plan B, originally effective September 1, 1949, and which was closed to new County Employees engaged on and after December 1, 1978.

"Plan C" means the Shelby County Retirement System Plan C, originally effective September 1, 2005, and which was closed to County Employees whose dates of employment (or dates of re-employment after an Interruption in Service) are on or after July 1, 2011.

"Plan Year" means the fiscal year ending on June 30.

"Present Value of Accrued Benefit" See "Accrued Benefit."

"Prior Service Certificate" See "Certificate."

"Public Safety Early Retirement Date" See "Early Retirement Date."

"Public Safety Early Retirement Pension" See "Pension."

"Public Safety Employee" means only an employee or elected official who falls within one of the following categories:

(a) Shelby County Sheriff's Office:

- * The duly elected Sheriff of the County;
- * Law enforcement officers certified by the State POST Commission;
- * Deputy jailers and correction deputies;
- * Counselors A and B.

(b) Shelby County Fire Department:

- * The County Fire Chief;
- * Firefighters and other employees in related classifications but only if such employees are certified by the State's Department of Commerce and Insurance and by the Bureau of Apprenticeship Training of the United States Department of Labor.

(c) Shelby County Department of Corrections:

- * Correctional officers who are certified by the State and whose employment situs is the County Correction Center, as well as the chief of security;
- * Care and custody counselors who are certified by the State and whose employment situs is the County Correction Center, as well as the chief of care and custody.

(d) Shelby County Juvenile Court and Court Clerk:

- * Detention officers and supervisory personnel whose work shifts mandate that they be housed in a detention area;

- * Court bailiffs who have received State-mandated training through the Shelby County Sheriff's Office;

- * Probation counselors B.

"Public Safety Normal Retirement Date" See "Normal Retirement Date."

"Public Safety Normal Retirement Pension" See "Pension."

"Public Safety Pension" means a Public Safety Normal Retirement Pension or a Public Safety Early Retirement Pension or both, depending upon the context.

"Public Safety Service" means Credited Service earned by a Participant while serving as a Public Safety Employee and necessitating making Required Contributions; "Public Safety Service" shall not include Credited Service deemed to have been earned while a Participant was a Disabled Participant.

"Qualified Military Service" means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual is such individual is entitled to reemployment rights under such chapter with respect to such service.

"Required Beginning Date" means the later of April 1 following the calendar year in which the Participant attains age 70 ½, or April 1 following the calendar year in which the Employee Terminates.

"Required Contribution" means 8% of a Participant's Earnings, which percentage may be changed from time to time by duly adopted amendment to the Plan.

"Retirement Pension" means Normal Retirement Pension (including Public Safety Normal Retirement Pension and Standard Normal Retirement Pension), Early Retirement Pension, and/or Deferred Vested Retirement Pension, and does not include Survivor Pension.

"Retirement System" See "System."

"Service" shall mean the number of years and months in any period of time during which a person is an Employee and performs services as such for his Employer.

"Spouse" means the person who has been legally married (as determined under the laws of the State) to the Participant for at

least three (3) consecutive years at the relevant time, except that, in the case of entitlement to a Survivor Pension under 6.1, if the Participant's death is a Line of Duty Death, "Spouse" means the person who was legally married (as determined under the laws of the State) to the Participant at the relevant time.⁸ The "relevant time" is (a) the day prior to the first date upon which the Participant is entitled to receive an immediately payable Pension after his having made an election to receive a Pension or (b) in the case of a Participant who dies prior to the date upon which he is entitled to so receive an immediately payable Pension, the date of his death.

"Standard Early Retirement Date" See "Early Retirement Date."

"Standard Early Retirement Pension" See "Pension."

"Standard Normal Retirement Date" See "Normal Retirement Date."

"Standard Normal Retirement Pension" See "Pension."

"State" means the State of Tennessee.

"Survivor Pension" See "Pension."

"System" or "Retirement System" means the "Retirement System of Shelby County, Tennessee," including all constituent plans.

"Temporary Employee" shall mean any County Employee who is identified and classified for payroll purposes as a "temporary employee."

"Termination" or "Termination of Employment" means termination of employment as an Employee of the Employer for any reason, including death; provided, however, that for purposes of entitlement to any benefit payments, a County-to-City Transfer Employee shall be deemed to have incurred a termination of employment only upon his termination from the City.

"Terminate," "Terminated," and other capitalized terms derived from the same root word shall be interpreted consistently.

"Total Credited Service" See "Credited Service."

"Trust" means the trust established under the Trust Agreement.

"Trust Agreement" means the "Administration and Trust Agreement of Shelby County, Tennessee, Retirement System."

"Trust Fund" See definition of "Fund."

ARTICLE 2 PARTICIPATION

2.1 Participation as a Condition of Employment.

Participation in the Plan is a condition of employment for each Eligible Employee (including each City-to-County Transfer Employee) whose date of employment or date of reemployment, if after an Interruption of Service, with an Employer is on or after the Effective Date.

2.2 Initial Participation. Each Eligible Employee described in 2.1 shall become a Participant on the date of his employment (or reemployment) with his Employer on or after the Effective Date.

2.3 Enrollment Procedures.

2.3.1 In General. Each Eligible Employee must submit a completed form called "Application for Participation - Shelby County Retirement System - Plan D" which shall be supplied by the Board. Upon receipt of an Eligible Employee's Application for Participation, he shall be furnished a document called "Summary of Plan D" as well as a copy of his Application for Participation.

2.3.2 City-to-County Transfer Employees. Each City-to-County Transfer Employee must also present to the Board a City Transfer Service Certificate containing a statement of his City Transfer Service. The Board has authority to review and accept City Transfer Service Certificates.¹

2.4 Agreement to Furnish Information; Waiver of Confidentiality. Each Eligible Employee agrees, upon request of the Board, to furnish facts and information about his pension benefits from Social Security or any other tax-supported entity as well as any other information regarding his earnings. As both a condition of participation and a condition of employment, each Participant waives all rights to confidential records required by the Board for administration of the Plan. The types of records which may be required include, but are not limited to, records maintained by physicians, the Social Security Administration, and the Internal Revenue Service. The Board will respect the confidential nature of all information not subject to Sunshine laws.

2.5 Continued Participation. A Participant will continue to be a Participant so long as he is either an Eligible Employee who is an Active Participant (or a former Active Participant who is engaged in Qualified Military Service), is entitled to receive in the future either a Pension or a lump sum distribution under 4.6,¹ or is actually receiving a Pension under the Plan.

ARTICLE 3
CREDITED SERVICE

3.1 Credited Service. Except as otherwise set forth herein, "Credited Service" means the number of years, Months, and Days of Service, without an Interruption of Service, for which an Active Participant is paid by his Employer. "Credited Service" further includes the number of years, Months, and Days during which a Participant is a Disabled Participant and is not drawing a Retirement Pension. "Credited Service" additionally includes the number of years, Months, and Days during which a Participant performed Qualified Military Service (provided the Participant is otherwise eligible under the terms of the Plan). None of the time periods described in this 3.1 shall be counted more than once.

3.1.1 Service under Plan A, Plan B, or Plan C. Credited Service includes Service reported on a Participant's Prior Service Certificate issued as a result of his having been a participant in Plan A, Plan B, or Plan C and which Credited Service shall have been calculated in accordance with the provisions of the relevant prior plan.

3.1.2 Service Otherwise Attributable to Certain Accrued Payments upon Termination Not Included in Credited Service. Notwithstanding the provisions of 3.1, service represented by post-Termination payments of unused accrued sick leave, unused accrued vacation days, unused "bonus days," and any other similar incentive awards granted under governing personnel policies shall not be included in "Credited Service."

3.1.3 Extensive Unpaid Absences. A Full-Time Active Participant who is not paid for 51% or more of a calendar month for any reason shall receive no Credited Service for the entire month. A Part-Time Employee who is not paid for 51% of the hours normally scheduled during a calendar month shall receive no Credited Service for the entire month.

3.1.4 Exclusion of Service While Not an Eligible Employee. Except for Participants who are Disabled Participants, Credited Service shall not include any Service performed when an Employee was not an Eligible Employee.

3.1.5 Positions Without Hourly Standards. If the Board determines, in its sole discretion, a Participant's employment position does not lend itself to any hourly work requirements or standards, Credited Service for such Participant shall be determined as if he is paid for working a specified number of

hours per calendar year, as determined by the Board in a consistent and non-discriminatory manner.

3.2 Interruption of Service. Except as otherwise set forth herein, an Interruption of Service occurs upon an Active Participant's Termination or, if later, upon the termination of the Disability of a Disabled Participant. However, an Interruption of Service shall not occur when a Participant is on an approved leave of absence, with or without pay, in accordance with governing personnel policies; any eligible leave under the Family Leave Act, for example, will not constitute an Interruption of Service. Absence from work as a result of illness will not cause an Interruption of Service so long as the absence remains an approved leave of absence, but if continued absence is not approved under governing personnel policies, an Interruption of Service will occur. An Interruption of Service shall not occur during the time that a Participant is a Disabled Participant.

3.3 Reemployed Participants. Each Participant who Terminates and each Participant whose payments under the Disability Contract are terminated will receive Credited Service as if there had been no Interruption of Service if he is subsequently reemployed by an Employer and if and only if (i) one of the following circumstances is applicable and (ii) he repays any Plan distribution made to him after his Termination in accordance with the provisions of 4.9:

- (a) the Participant's Termination or absence was due to Qualified Military Service, and he is entitled to reemployment under the provisions of any applicable state or federal law, including chapter 43 of title 38 of the United States Code, and he does, in fact, become an Eligible Employee within the time specified by law and in the manner and under the conditions prescribed by law;
- (b) the Participant is an elected official of the County and is reelected (or elected to another elective office) within nine (9) years after his term of office has ended as a result of either (i) an election defeat or (ii) his inability to seek reelection to his elective office for a consecutive term as a result of term limits legislation and/or provisions of the County Charter; or
- (c) the Participant returns to work as an Eligible Employee within two (2) years following Termination, and he was in good standing at the time of his Termination.

Otherwise, if a Participant has accumulated Credited Service both before and after an Interruption of Service, any benefits he and his survivors are entitled to under this Plan (other than a benefit not calculated with respect to his years of Credited Service, such as any Dependent Child's entitlement to a Survivor Pension) shall be determined as if he were two separate Participants, one of whom Terminated on the date of his first Interruption of Service and under the circumstances then prevailing and the other of whom Terminated on the date of his second Interruption of Service and under the circumstances then prevailing, each Terminating with a different period of Credited Service, and each with a different Final Average Earnings.

3.4 Part-Time Employees. Each Active Participant who is a Part-Time Employee shall be entitled to Credited Service as if he were a Full-Time Employee. Furthermore, each such Participant who normally works fewer than 12 months during a calendar year shall be entitled to Credited Service as if he had worked for 12 months during the calendar year.

3.5 Commissioners. Commissioners shall receive Credited Service as if they were Full-Time Employees.

3.6 City-to-County Transfer Employees. The Credited Service of a Participant who is a City-to-County Transfer Employee shall include Service contained in his City Transfer Service Certificate.

ARTICLE 4
RETIREMENT PENSIONS;
MANDATORY AND OPTIONAL CASH-OUTS;
MINIMUM REQUIRED DISTRIBUTIONS

4.1 Normal Retirement Pensions.

4.1.1 Public Safety Normal Retirement Pension.

4.1.1.1 Eligibility. A Participant who has earned at least seven and one-half (7 ½) years of Credited Service is entitled to a Public Safety Normal Retirement Pension beginning at or after age 55 if (i) his last 20 years of Credited Service before attaining age 55 constituted Public Safety Service or (ii) if he has fewer than 20 years of Credited Service, all of his years of Credited Service constituted Public Safety Service.

4.1.1.2 Calculation and Payment of Pension. The Public Safety Normal Retirement Pension of each such Participant, expressed in terms of a Life Only Annuity, shall be the greater of the Pension described in paragraph (a) or the Pension described in paragraph (b). If the Participant has a Spouse on the Annuity Starting Date, his Retirement Pension shall be paid in the form of a 75% Joint Survivor Annuity that is the Actuarial Equivalent of a Life Only Annuity. It shall begin as of the day following his Termination after reaching age 55 and shall be payable in arrears on the last day of each month thereafter during his lifetime; if his Spouse survives him, a Survivor Pension shall be paid to her as provided in Article 6.

(a) (1) the product of (i) his Final Average Earnings, (ii) his years of Credited Service (limited to 35 years of Credited Service), and (iii) 2.175%; or

(b) the Life Annuity Equivalent of his Participant Contributions Account.

4.1.2 Standard Normal Retirement Pension.

4.1.2.1 Eligibility. The Standard Normal Retirement Pension of each Participant who is not eligible for a Public Safety Normal Retirement Pension shall begin as of the day following his Termination after reaching age 67 and after having completed at least seven and one-half (7 ½) years of Credited Service.

4.1.2.2 Calculation and Payment of Pension. The Standard Normal Retirement Pension of each such Participant, expressed in terms of a Life Only Annuity, shall be the greater of the Pension

described in paragraph (a) or the Pension described in paragraph (b). If the Participant has a Spouse on the Annuity Starting Date, his Retirement Pension shall be paid in the form of a 75% Joint Survivor Annuity that is the Actuarial Equivalent of a Life Only Annuity. It shall begin as of the day following his Termination after reaching age 67 and shall be payable in arrears on the last day of each month thereafter during his lifetime; if his Spouse survives him, a Survivor Pension shall be paid to her as provided in Article 6.

(a) (1) the product of (i) his Final Average Earnings, (ii) his years of Credited Service (limited to 35 years of Credited Service), and (iii) 2.175%; or

(b) the Life Annuity Equivalent of his Participant Contributions Account.

4.2 Normal Retirement Pension Following Disability Contract Termination Date (ADEA I). On the first day of the month following a Disabled Participant's Disability Contract Termination Date (ADEA I), he shall be eligible to receive a Standard Normal Retirement Pension. It shall be calculated and paid as set forth in 4.1, under the following assumptions and with the following adjustments: (a) the Participant shall be deemed to have terminated on his Disability Contract Termination Date (ADEA I); (b) the Participant shall be deemed to have earned Credited Service for all periods he was an Insured Disabled Participant (as provided in 3.1); (c) the Participant's Final Average Earnings shall be adjusted by the COLA from the beginning of the period described in (b) above through his Disability Contract Termination Date (ADEA I); and (d) the Pension shall not be deemed to be a Standard Early Retirement Pension even though it begins before the Participant attains age 67. Notwithstanding the foregoing, if the Participant's Credited Service, as so calculated, would not have entitled him to a Normal Retirement Pension as of the day before his Normal Retirement Date, he shall not be entitled to a Normal Retirement Pension.

4.3 Early Retirement Pensions.

4.3.1 Public Safety Early Retirement Pension.

4.3.1.1 Eligibility. If the Termination of a Participant whose last 20 years of Credited Service before his Termination constituted Public Safety Service occurs on or after age 50 but before age 55, he shall be eligible for a Public Safety Early Retirement Pension.

4.3.1.2 Calculation and Payment of Pension. The Public Safety Early Retirement Pension of each such Participant,

expressed in terms of a Life Only Annuity, shall be the greater of the Pension described in paragraph (a) or the Pension described in paragraph (b). If the Participant has a Spouse on the Annuity Starting Date, his Retirement Pension shall be paid in the form of a 75% Joint Survivor Annuity that is the Actuarial Equivalent of a Life Only Annuity. It shall begin as of the day following his Termination after reaching age 50 or such later date chosen by the Participant until his 55th birthday and shall be payable in arrears on the last day of each month thereafter during his lifetime; if his Spouse survives him, a Survivor Pension shall be paid to her as provided in Article 6.

(a) the product of (i) his Final Average Earnings, (ii) his years of Credited Service (limited to 35 years of Credited Service), and (iii) the percentage factor set forth on **Table ERP-PS** based upon the Participant's attained age as of his Annuity Starting Date; or

(b) the Life Annuity Equivalent of his Participant Contributions Account.

4.3.2 Standard Early Retirement Pension.

4.3.2.1 Eligibility. If the Termination of a Participant who is not eligible for a Standard Normal Retirement Pension occurs after completion of the required years of Credited Service and on or after age 62, he shall be eligible for a Standard Early Retirement Pension if he has then completed the required years of Credited Service. The required years of Credited Service shall be seven and one-half (7 ½) except in the case of a County-to-City Transfer Employee, in which case the required years of Credited Service shall be that number of years required to earn a deferred vested benefit under the City of Memphis Retirement System, regardless of the number of years of Credited Service such Employee had earned prior to such transfer.

4.3.2.2 Calculation and Payment of Pension. The Standard Early Retirement Pension of each such Participant, expressed in terms of a Life Only Annuity, shall be the greater of the Pension described in paragraph (a) or the Pension described in paragraph (b). If the Participant has a Spouse on the Annuity Starting Date, his Retirement Pension shall be paid in the form of a 75% Joint Survivor Annuity that is the Actuarial Equivalent of a Life Only Annuity. It shall begin as of the day following his Termination after reaching age 62¹ or such later date chosen by the Participant until his 67th birthday¹ and shall be payable in arrears on the last day of each month thereafter during his lifetime; if his Spouse survives him, a Survivor Pension shall be paid to her as provided in Article 6.

(a) the product of (i) his Final Average Earnings, (ii) his years of Credited Service (limited to 35 years of Credited Service), and (iii) the percentage factor set forth on **Table ERP-S** based upon the Participant's attained age as of his Annuity Starting Date; or

(b) the Life Annuity Equivalent of his Participant Contributions Account.

4.4 Deferred Vested Retirement Pension-- Table DVRP.

4.4.1 Eligibility. Each Participant who has completed the required years of Credited Service at the time of his Termination and who is not eligible for a Normal Retirement Pension or an Early Retirement Pension shall be eligible for a Deferred Vested Retirement Pension. The required years of Credited Service shall be seven and one-half (7 ½) except in the case of a County-to-City Transfer Employee, in which case the required years of Credited Service shall be that number of years required to earn a deferred vested benefit under the City of Memphis Retirement System, regardless of the number of years of Credited Service such Employee had earned prior to such transfer.

4.4.2 Calculation and Payment of Pension. The Deferred Vested Retirement Pension of each such Participant, expressed in terms of a Life Only Annuity, shall be the greater of the Pension described in paragraph (a) or the Pension described in paragraph (b). If the Participant has a Spouse on his Annuity Starting Date, his Retirement Pension shall be paid in the form of a 75% Joint Survivor Annuity that is the Actuarial Equivalent of a Life Only Annuity. It shall begin at a time of the Participant's election, but no earlier than his attainment of age 62 and no later than his attainment of age 67 and shall be payable in arrears on the last day of each month thereafter during his lifetime; if his Spouse survives him, a Survivor Pension shall be paid to her as provided in Article 6.

(a) the product of (i) his Final Average Earnings, (ii) his years of Credited Service (limited to 35 years of Credited Service), and (iii) the percentage factor set forth on **Table DVRP**, based upon the Participant's attained age at the time his Pension actually begins; or

(b) the Life Annuity Equivalent of his Participant Contributions Account.

4.5 Benefit Calculations for Governmental Transfer Employees.

4.5.1 City-to-County Transfer Employees. Notwithstanding the provisions of 4.1 through 4.4, a Retirement Pension otherwise payable from this Plan to a City-to-County Transfer Employee shall be calculated as the excess, if any, of:

- (a) a Retirement Pension (if any)² payable hereunder to the Participant based on his Total Credited Service (not to exceed 35 years of Total Credited Service) and his Final Average Earnings as of the date of Termination (taking into consideration all other relevant provisions of 4.1 through 4.5²), over
- (b) a hypothetical County² Retirement Pension based solely on his City Transfer Service and Final Average Earnings from the County only² as of the date of Termination (taking into consideration all other relevant provisions of 4.1 through 4.5² but disregarding any required years of Credited Service).²

Furthermore, his entitlement to a Public Safety Pension shall be determined based upon his Total Credited Service.

4.5.2 County-to-City Transfer Employees. Notwithstanding other provisions of Article 4 to the contrary, if the Total Credited Service of a County-to-City Transfer Employee is at least equal to the Credited Service necessary to enable a Participant to receive a Retirement Pension under Article 4, then upon termination of his City employment he shall be entitled to the appropriate Retirement Pension. Such Retirement Pension shall be calculated as set forth in 4.1, 4.2, 4.3, or 4.4, whichever is applicable, with the following variations² (i) if the date of his last transfer to the City was on or before December 31, 2012², his Final Average Earnings shall be based upon his compensation from the City (or from the City and the County if his Averaging Period includes service with both) and shall be calculated as set forth in this Plan; (ii) if the date of his last transfer to the City was on or after January 1, 2013, his Final Average Earnings and his Averaging Period shall be based upon and shall be calculated with respect to his compensation from the County only and shall be calculated as set forth in this Plan²; and (iii) in both cases² his years of Credited Service shall be those set forth on his County Transfer Service Certificate (not his Total Credited Service).² If he would have been entitled to a Public Safety Pension based upon his Total Credited Service, his Pension shall be payable at such times.

4.5.3 Appropriate Retirement Pension.² The appropriate Retirement Pension to which the Participant is entitled under 4.5.2 shall be based upon the provisions of this Plan rather than the City Plan; for example, if the Participant terminates employment with the City at age 48 with 25 years of Total Credited Service, then, if unless he is entitled to a Public Safety Pension under this Plan, the Pension to which he is entitled under this Plan shall be a Deferred Vested Pension, subject to the provisions of 4.6.²

4.5.4 Multiple Transfers.² If a Participant meets the definition of both a City-to-County Transfer Employee and a County-to-City Transfer Employee, upon his Termination his Pension entitlement shall be calculated as if he were an employee of the governmental entity from which he Terminated.² Thus, regardless of how many transfers between City and County employment he has made, if he Terminates as a County Employee, his Pension entitlement shall be calculated under 4.5.1, and if he Terminates as a City employee, his Pension entitlement shall be calculated under 4.5.2.²

4.6 Lump Sum Payments.

4.6.1 Mandatory Cash-Outs. Upon Termination of a Participant who is not eligible for any Retirement Pension, the Board shall pay to him his Participant Contributions Account in one lump sum, without his consent. Furthermore, notwithstanding the provisions of 4.4, if the Present Value of Accrued Benefit of a Terminated Participant who is otherwise entitled to a Deferred Vested Retirement Pension is less than \$30,000 at the time of Termination, the Board shall pay to him the Present Value of his Accrued Benefit in one lump sum, without his consent.

4.6.2 Optional Cash-Outs.

4.6.2.1 Terminated Participant Entitled to Deferred Vested Pension. Each Terminated Participant who is entitled to receive a Deferred Vested Pension and is not entitled to a mandatory cash-out payment under 4.6.1 may elect at any time¹, subject to the provisions of 7.6 (where applicable), a lump sum distribution of the Present Value of his Accrued Benefit, provided that it is less than \$50,000 on the date of its scheduled payment, as set forth in 4.6.4.

4.6.2.2 Surviving Spouse Entitled to Spousal Survivor Pension. Each surviving Spouse who is entitled to receive a Survivor Pension (other than as part of the normal form 75% Joint and Survivor Annuity or as part of an Optional Pension) but who has not yet begun to receive such Pension may elect to receive, subject to the provisions of 7.6 (where applicable), a lump sum

distribution of the Present Value of the Accrued Benefit, provided that it is less than \$50,000 on the date of its scheduled payment, as set forth in 4.6.4.

4.6.3 Time for Lump Sum Payments.

4.6.3.1 To Terminated Participants.

(a) General Rule: 180 Day Deferral.¹ Except as otherwise provided in this 4.6.3.1, no lump sum payment to a Terminated Participant shall be made until at least 180 days after the Participant's Termination. The Board may establish one or more specified periods during the Plan Year in which such payments will be made. Until payment is actually made to the Participant, the terms of the Plan other than this 4.6 shall apply with respect to him.

(b) Mandatory Earlier Refunds.¹ Notwithstanding the provisions of paragraph (a) to the contrary, each Participant whose Participant Contributions Account is less than \$5,000 as of the date of Termination (other than a Participant to whom paragraph (c) applies) shall receive a distribution of his Participant Contributions Account as soon as administratively practicable after his Termination.

(c) Permissive Earlier Refunds.¹ Notwithstanding the provisions of paragraphs (a) and (b) to the contrary, each Participant whose Termination is the result of a reduction in workforce as determined by the County's employment records and who is not eligible for any Retirement Pension may elect to receive a refund of his Participant Contributions Accounts as soon as administratively practicable after his Termination.

(d) No Distribution after Reemployment.¹ Notwithstanding the provisions of paragraphs (a), (b), and (c) to the contrary, no lump sum payment shall be made to a Participant if he has been reemployed by an Employer (whether as an Eligible Employee or not) at the time established for payment.

4.6.3.2 To Surviving Spouses. The lump sum payment to a surviving Spouse shall be made as soon as administratively practicable following the Participant's death and after the Beneficiary's election has been made.

4.6.4 Calculation of Benefit. The lump sum payment required to be made under 4.6.1 or permitted to be made under 4.6.2 shall be calculated as of the first day of the calendar quarter in which payment is made.

4.7 Optional Pensions.

4.7.1 Election and Revocation of Election. A Participant who is entitled to receive a Retirement Pension may, at least 90 days prior to the beginning of the such Pension, elect to receive an Optional Pension in lieu of both the Retirement Pension otherwise payable to him and any Survivor Pension or other benefit payable to the Participant's survivors under Article 6. The election shall be in writing in such form and manner as the Board may prescribe. At least 90 days before the beginning of the Optional Pension, the Participant may revoke his election and make a new election. Upon good cause shown, a Participant may elect to revoke his election within the 90 day period but no later than 45 days before the beginning of the Pension. The election of an Optional Pension shall be null and void if the Participant or his Named Beneficiary under the optional form dies before the beginning of the Optional Pension, and the Retirement Pension and/or Survivor Pension otherwise payable under the Plan shall again become payable.

4.7.2 Actuarial Equivalence. Each Optional Pension shall be Actuarially Equivalent to the Retirement Pension otherwise payable to the Participant in the form of a Life Only Annuity.

4.7.3 Forms of Optional Pensions. The Board shall not approve any Optional Pension under which the actuarial value of benefits payable to Named Beneficiaries is greater than 50% of the value of all benefits under the Optional Pension.

4.7.3.1 Option A - Joint and Survivor Annuity. A pension payable to the Participant for his life and, after his death, a percentage (as specified by the Participant in his election) of the Participant's pension for the life or lives of his Named Beneficiary or Named Beneficiaries. Permissible percentages of the continuing pension to the Named Beneficiary or Named Beneficiaries are 50%, 66 2/3%, 75%, or 100%, except that a 50% and a 66 2/3% joint and survivor annuity shall not be an available Optional Pension if the Participant's Named Beneficiary is his Spouse. If the Participant has more than one Named Beneficiary, Actuarial Equivalence shall be calculated by using the age of the youngest Named Beneficiary and, upon the Participant's death, dividing the resulting survivor benefit by the number of then living Named Beneficiaries. Notwithstanding the foregoing, this form of Optional Pension shall not be available to a Participant who has a Spouse unless his Spouse shall have consented in writing to the selection of such Optional Pension on a form and in a manner satisfactory to the Board.

4.7.3.2 Option B - Life Only with a 10-Year Certain Payment. A pension payable to the Participant for the longer of the Participant's life or 120 months from his Annuity Starting Date. If the Participant dies within 120 months from his Annuity Starting Date, the same pension shall be payable to his Named Beneficiary or Named Beneficiaries until the end of such 120 month period. If there is more than one Named Beneficiary, the payment shall be divided into as many equal shares as there are Named Beneficiaries on the Annuity Starting Date and paid accordingly to such Named Beneficiaries or to their estates upon their deaths. Notwithstanding the foregoing, this form of Optional Pension shall not be available to a Participant who has a Spouse unless his Spouse shall have consented in writing to the selection of such Optional Pension on a form and in a manner satisfactory to the Board.

4.7.3.3 Option C - Life Only Annuity. A Life Only Annuity. Notwithstanding the foregoing, this form of Optional Pension shall not be available to a Participant who has a Spouse unless his Spouse shall have consented in writing to the selection of such Optional Pension on a form and in a manner satisfactory to the Board.

4.7.3.4 Option D - Special Form Option. A benefit form specified by the Participant, subject to the approval of the Board, which shall be tailored to the pattern of benefits reasonably necessary to meet specific needs of the Participant and the Participant's Spouse. A special form of Optional Pension shall not be available to a Participant who has a Spouse unless his Spouse shall have consented in writing to the selection of such Optional Pension on a form and in a manner satisfactory to the Board.

4.8 [Reserved.]

4.9 Repayment of Distributions with Interest upon Reemployment.

4.9.1 Elective Repayment. If a Terminated Participant who has received a distribution under 4.6 is reemployed as an Eligible Employee under circumstances that would permit his prior Credited Service to be restored under 3.3 absent his having received such payment, he shall have the right to repay the Trust the entire amount of his previous distribution(s) plus interest, compounded annually through the date of repayment at the rate set forth on Schedule 1 and utilized by the Actuary in calculating the Present Value of Accrued Benefit. Upon full repayment, the provisions of 3.3 shall apply to the Participant.

4.9.2 Method of Repayment. Any repayment under 4.9.1 must be made on a single date in the form of one or more cashier's checks payable to the Trust and must be made within one (1) year of his date of reemployment. If the Participant had caused the Trust to transfer any previously made payment directly into an Eligible Retirement Plan, the Trustee shall accept a direct transfer of cash from such Eligible Retirement Plan as part (or all, as the case may be) of such repayment.

4.10 Minimum Distribution Rules under IRC 401(a)(9). The requirements of this section shall apply to any payments of a Participant's benefits and shall take precedence over any inconsistent provisions of the Plan. All payments required under this section shall be determined and made in accordance with the Treasury Regulations 1.401(a)(9)-0 through 1.401(a)(9)-9 except to the extent specifically not applicable to governmental plans; all life expectancy and joint and last survivor expectancy are computed by use of the tables set forth in Treasury Regulation Section 1.401(a)(9)-9, as such tables may be amended pursuant thereto. The consent of the Participant or of the Participant's Spouse or Designated Beneficiary shall not be required to make a payment required under this section.

4.10.1 Required Beginning Date. The entire interest of a Participant must be paid or begin to be paid no later than the Participant's Required Beginning Date.

4.10.2 Duration of Benefits. Benefits to a Participant shall be paid, beginning not later than the Required Beginning Date in accordance with Treasury Regulations 1.401(a)(9), for a period not exceeding the life or life expectancy of the Participant or, if applicable, the joint lives or life expectancies of such Participant and his Designated Beneficiary. "Life expectancy" shall mean the life expectancy (or joint and last survivor expectancy) calculated by using the attained age of the Participant (or Designated Beneficiary) as of the Participant's (or Designated Beneficiary's) birthday in the applicable calendar year, provided that lifetime distributions must always satisfy the incidental death benefit requirements of IRC 401(a)(9)(G). Where the Designated Beneficiary is the Participant's spouse, life expectancies may be redetermined not less frequently than annually. The applicable calendar year shall be the first distribution calendar year, except that, if annuity payments begin before the Required Beginning Date, the applicable calendar year is the year such payments begin.

4.10.3 Payments after Death of Participant.

4.10.3.1 Payments Begun Before Death. If payment of a Participant's benefits has begun in accordance with this Plan, but the Participant dies and benefit payments are to be made after his death, then such benefit payments shall be made after his death at least as rapidly as they were under the benefit payment option in effect as of the date of his death.

4.10.3.2 Payments Not Begun Before Death. If the Participant dies before payment of his benefits begins, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death except to the extent that the provisions of either paragraph (a) or (b), below, apply:

- (a) If any portion of the Participant's interest is payable to a Designated Beneficiary other than a surviving spouse, payments may be made over the life expectancy of the Designated Beneficiary, or over a period certain not longer than the life expectancy of the Designated Beneficiary, beginning on or before December 31 of the calendar year immediately following the calendar year in which the Participant died;
- (b) if the Designated Beneficiary is the Participant's surviving spouse, payments may be made over the life expectancy of such surviving spouse or over a period certain not longer than the life expectancy of such surviving spouse, beginning on or before the later of (1) December 31 of the calendar year immediately following the calendar year in which the Participant died; or (2) December 31 of the calendar year in which the Participant would have attained age 70 $\frac{1}{2}$. Furthermore, if the surviving spouse dies before payments to such surviving spouse begin, payments to further beneficiaries, if any, shall be required to begin as if such spouse were the Participant under this paragraph (b).

4.11 Ineligibility for Benefits While Actively Employed. Except as otherwise required by law or in 4.11, no Participant is entitled to payment of a Pension from this Plan while he is an Active Participant in the Plan (whether or not then accruing service for a pension).

4.11.1 Suspension of Retirement Pension. Except as provided in 4.11.2, the Pension then being paid to any Pensioned Participant who again becomes an Employee (whether or not he

again becomes an Eligible Employee) shall immediately cease. Upon his Termination after such reemployment, his Pension shall recommence as of the first day of the following month, and if he shall have qualified for additional Pension benefits under the terms of the Plan, his Pension shall be recalculated accordingly.

4.11.2 Exception for Certain Temporary Employees. The provisions of 4.11.1 shall not apply to a Pensioned Participant under either of the following circumstances: (a) after he has attained the age of 62 and applied for his Pension, his job classification is changed to Temporary Employee (and he is thus no longer an Eligible Employee) or (b) after his Termination whether or not he has then attained age 62, he is reemployed as a Temporary Employee. These exceptions shall apply only if the Pensioned Participant's employment as a Temporary Employee does not exceed 1,200 hours in any calendar year and, unless he holds a specialty certification and/or a license necessary for the work for which he is employed, his rate of pay is an amount equal to that of A Step (entry level) for the position in which he is employed. If the Pensioned Participant holds a specialty certification and/or license necessary for the work for which he is reemployed as a Temporary Employee, his rate of pay shall be a special temporary rate established by the County's Administrator of Human Resources, which rate is applicable to all Temporary Employees employed in the same positional category.

4.11.3 Exception for Certain Pensioned Participants Who Are Election Commissioners. The provisions of 4.11.1 shall not apply to any Pensioned Participant who is appointed by the State election commission as an election commissioner, provided that he waives in writing, on a form provided by the Board, all of his rights to any benefit accrual under this Plan during his tenure as an election commissioner. Such waiver of rights shall supercede every other provision of this Plan relating to mandatory participation, Credited Service, and benefit accrual.

ARTICLE 5
DISABILITY PENSIONS

5.1 No Disability Pensions Payable under This Plan. Except as provided in this Article, this Plan shall not provide a pension to any Participant by reason of the fact that such Participant is disabled.

5.2 Ordinary Disability Pension for County-to-City Transfer Employee. If a County-to-City Transfer Employee's Total Credited Service is sufficient to entitle him to an ordinary disability pension from the City Plan (with the fact of disability determined under the provisions of the City Plan), so long as such disability exists, he shall be entitled to a disability pension from this Plan in the amount of the excess, if any, of:

- (a) an "Ordinary Disability Pension" (as defined in Plan A, calculated as if the Participant had been a participant in Plan A and as if Plan A had not been amended to reflect the existence of the Disability Contract) based on his Total Credited Service and his "average monthly compensation" (as defined in the City Plan) as of the date of "ordinary disability" (as defined in the City Plan), over
- (b) the Participant's disability entitlement from the City Plan.

Notwithstanding the foregoing, the ordinary disability pension payable from this Plan to a County-to-City Transfer Employee shall not exceed 60% of the Participant's "average monthly compensation" (as defined in the City Plan), as adjusted by the COLA from time to time, less the Participant's monthly disability entitlement from the City Plan.

5.3 Line of Duty Disability of County to-City Transfer Employee. If any County-to-City Transfer Employee incurs a "line of duty disability" as defined in section 25-1(27) of the City Plan, such Participant's Participant Contributions Account shall be distributed to him within 60 days after formal notification by the City of the determination of such "line of duty disability." Such transfer shall be a full and unconditional release of this Plan by the Participant and the City with respect to any further benefit obligations otherwise owed under this Plan to the Participant or any of his survivors.

ARTICLE 6
SURVIVOR PENSIONS

6.1 Death of Active Participant; Line of Duty Death; Death of Disabled Participant. If an Active Participant dies before Termination and at the time of his death he had not completed 7 ½ years of Credited Service nor was his death a Line of Duty Death, the amount of his Participant Contributions Account shall be paid to his Named Beneficiary. If an Active Participant dies before Termination and (a) at the time of his death he had completed at least 7 ½ years of Credited Service or (b) his death is a Line of Duty Death, or if a Participant dies during the time that he was an Insured Disabled Participant, then the following Survivor Pensions are payable.

6.1.1 Dependent Children. If and so long as there is at least one survivor of the Participant who is a Dependent Child, the Survivor Pension to or for the benefit of such Dependent Child(ren) shall be 50% of the Participant's Final Average Earnings determined as of the date of death. A Disabled Participant's Final Average Earnings shall be adjusted by the COLA from the date of his Termination until the date of his death.

6.1.2 Surviving Spouse.

6.1.2.1 Participant with Fewer Than 15 Years of Credited Service. If, at the time of his death, the Participant had fewer than 15 years of Credited Service and his surviving Spouse is his Named Beneficiary, the Participant's Participant Contributions Account shall be paid to his surviving Spouse in a lump sum within 90 days of the date of the Participant's death.

6.1.2.2 Participant with 15 or More Years of Credited Service. If, at the time of his death, the Participant had 15 or more years of Credited Service and his surviving Spouse is his Named Beneficiary, his surviving Spouse shall be entitled to a Survivor Pension for the life of the surviving Spouse in the amount of the greater of:

- (a) 75% of a pension calculated by multiplying his Final Average Earnings (in the case of a Disabled Participant, adjusted by the COLA from the date of his Termination until the date of his death) by the product of (i) his years of Credited Service (limited to 35 years of Credited Service) and (ii) 2.175%. Such Pension shall be payable monthly for

the Spouse's life, beginning on the date on which the Spouse attains age 67, or

- (b) the Life Annuity Equivalent of the Participant's Participant Contributions Account as of the date of his death, payable monthly for the Spouse's life.

If the Survivor Pension is calculated under 6.1.2.2(a) and if the surviving Spouse is under age 67 at the time of the Participant's death, the Participant's Final Average Earnings shall be adjusted by the COLA over the period of time from the Participant's death to the Spouse's 67th birthday. In lieu of receiving such Survivor Pension at age 67, the surviving Spouse shall have the right to make the election under 6.6.

6.1.3 Named Beneficiary Other Than Surviving Spouse. If the Participant's Named Beneficiary was not his surviving Spouse, his Participant Contributions Account, to the extent vested and non-forfeitable, shall be paid to his Named Beneficiary in a lump sum within 90 days of the date of the Participant's death.

6.1.4 Benefit Calculations for Governmental Transfer Employees. Notwithstanding the provisions of 6.1.1 through 6.1.3, the provisions of this 6.1.4 are applicable to Participants who are County-to-City Transfer Employees and City-to-County Transfer Employees.

6.1.4.1 Line of Duty Death.

(a) County-to-City Transfer Employee. There shall be no Survivor Pensions paid to any survivor of a County-to-City Transfer Employee if such Employee's death is a "line of duty death" as defined in the City Plan. Rather, such Participant's vested Participant Contributions Account shall be distributed to his Named Beneficiary within 60 days after formal notification by the City of the determination of such "line of duty death." Such transfer shall be a full and unconditional release of this Plan by the Participant's estate, his survivors and the City with respect to any further benefit obligations otherwise owed under this Plan to the Participant's estate or any of his survivors.

(b) City-to-County Transfer Employee. The survivors of a City-to-County Transfer Employee whose death is a Line of Duty Death are entitled to all survivor benefits under this 6.1, and, where calculation of any benefit is dependent upon his Credited Service, it shall be based upon his Total Credited Service.

6.1.4.2 Pensions to Dependent Children.² If a Survivor Pension is payable under 6.1.1 to the Dependent Child(ren) of a City-to-County Transfer Employee, the benefits otherwise payable to the Participant's Dependent Child(ren) shall be prorated, based upon a fraction, the numerator of which is the Participant's years of Credited Service as a County Employee and the denominator of which is his Total Credited Service. Notwithstanding the provisions of 6.1.1, no benefits shall be payable to the Dependent Child(ren) of a County-to-City Transfer Employee.²

6.1.4.3 Spousal Survivor Pensions. If a Survivor Pension is payable under 6.1.2.2 to the surviving Spouse of a City-to-County Transfer Employee, it shall be calculated with respect to his Total Credited Service and then reduced by a hypothetical² Survivor Pension that would have been payable based solely on the Participant's City Transfer Service (using interpolation if his City Transfer Service was fewer than 15 years). If a Survivor Pension is payable under 6.1.2.2 to the surviving Spouse of a County-to-City Transfer Employee, (i) if the date of the Participant's last transfer to the City was on or before December 31, 2012², his Final Average Earnings shall be based upon his compensation from the City (or from the City and the County if his Averaging Period includes service with both) and shall be calculated as set forth in this Plan; (ii) if the date of the Participant's last transfer to the City was on or after January 1, 2013, his Final Average Earnings and his Averaging Period shall be based upon and shall be calculated with respect to his compensation from the County only and shall be calculated as set forth in this Plan²; and (iii) in both cases² his years of Credited Service shall be those set forth on his County Transfer Service Certificate (not his Total Credited Service).

6.2 Survivor Benefits upon Death of a Participant After Termination.

6.2.1 Death While Receiving a Retirement Pension. If a Participant, including a County-to-City Transfer Employee and a City-to-County Transfer Employee, dies after Termination and was receiving at the time of his death (or was then entitled to immediate receipt of) a Retirement Pension, then the following Pensions shall be payable to his survivors.

6.2.1.1 Spousal Survivor Pension. If the Participant's benefit was paid to him in the normal form of a 75% joint and survivor annuity, the benefit to his surviving Spouse shall be governed thereby and shall be payable to such surviving Spouse in arrears on the last day of each month thereafter for the surviving Spouse's life. No benefit shall be paid to any

surviving Spouse who was not the Participant's Spouse on his Annuity Starting Date.

6.2.1.2 Optional Pension. If the Participant shall have elected to receive an Optional Pension, all survivor benefits shall be determined in accordance with the terms of his elected Optional Pension.

6.2.1.3 Pension Based on Life Annuity Equivalent of Participant's Participant Contributions Account. If the Participant's Pension was calculated as the Life Annuity Equivalent of his Participant Contributions Account, all survivor benefits shall be determined in accordance with the terms of such Pension, including any Optional Pension elected in lieu thereof.

6.2.2 Death Before Receipt of Retirement Pension. If a Participant dies after Termination and before receipt of any Retirement Pension, then the provisions of 6.1.2, 6.1.3, and 6.1.4 shall apply.

6.3 Benefits Payable If Participant Required to Receive Mandatory Cash-Out Dies before Payment. If a Participant Terminates and is required to receive a mandatory cashout payment under 4.6.1 but dies before receiving such payment, the amount of his mandatory cash-out payment shall be paid to his Named Beneficiary. Such payment shall be in lieu of all other survivor benefits under this Plan.

6.4 [Reserved].

6.5 [Reserved].

6.6 Spousal Survivor Pension Option. When a surviving Spouse is entitled to a Survivor Pension only after such surviving Spouse has attained age 67, such surviving Spouse who has not attained age 67 shall have the right, at any time before the Survivor Pension begins, to elect to receive, in lieu of the designated Survivor Pension, an Actuarially Equivalent monthly lifetime Survivor Pension to begin at an earlier specified date. Where the Participant's Final Average Earnings is otherwise required in this Article to be adjusted by the COLA from the date of the Participant's death to the Spouse's 67th birthday, it shall be so adjusted only until the date the Survivor Pension becomes payable to the surviving Spouse pursuant to the election. However, such Survivor Pension itself shall not be adjusted by the COLA until the January 1 following the Spouse's 67th birthday.

6.7 Payments to or for the Benefit of Dependent Children. The Survivor Pension payable to or for the benefit of a deceased Participant's Dependent Children shall be divided equally among

the persons who are, from time to time, Dependent Children. All Survivor Pensions payable to or for the benefit of a Dependent Child who is under a legal incapacity shall be paid to the court-appointed legal guardian of the estate of such Dependent Child. Survivor Pensions payable to or for the benefit of a Dependent Child who is not under a legal incapacity shall be paid directly to such Dependent Child.

6.8 Time for Payment of Survivor Pensions. When a Survivor Pension is originally payable as of a particular date, it shall be calculated from such date even though payment may take place at a later date as a result of administrative procedures or otherwise. Thereafter, each monthly Survivor Pension payment shall be made in arrears on the last business day of the month.

ARTICLE 7
MISCELLANEOUS BENEFIT PROVISIONS

7.1 Application for Benefits. Before any Pension or other benefit under the Plan is payable, all conditions applicable to the payment of the Pension or other benefit must be met. Additionally, a written application for the Pension or benefit must be presented to the Board in such form and manner as the Board shall determine, and payment of the Pension or benefit must be approved and authorized by the Board.

7.1.1 Participant's Certification of Marital Status. Prior to and as a condition of the Participant's receipt of any benefits under the Plan, each Participant shall certify in writing and under oath to the Board his marital status. His certificate shall state whether or not he is legally married under the laws of the State and, if he is so legally married, the name, Social Security number, and address of his spouse and the date of their marriage. If he is legally married, he shall attach to his certificate a copy of his marriage license. The Board shall be entitled to rely upon the Participant's certificate and its contents unless and until his certificate is proven false to the Board's satisfaction, at which time the Board shall fashion an appropriate remedy which may include denial of future benefits to the person to whom benefit payments would otherwise have been paid upon the Participant's death (or were being paid after the Participant's death) and an award of such benefits to a person who is proven to have been the Participant's Spouse at the relevant time. Under no circumstances shall the Board, the County, or any of its elected or appointed officials or employees be liable or responsible in any way to any person by reason of the Board's reliance upon the accuracy of the Participant's certificate.

7.1.2 Spouse's Proof of Marital Status. Where a Pension or benefits are payable to the Spouse of a Participant, the person making the application shall present satisfactory proof to the Board that such person meets the Plan's definition of "Spouse."

7.1.3 Birth Certificates. Where a Pension or other benefit is payable to a Participant, his Spouse or Dependent Child, or any other Beneficiary of his, the Participant (if living and able, otherwise the person making the application) shall provide to the Board, promptly upon request, a copy of the birth certificate (or other evidence of the date of birth and parentage) of each person with respect to whose age the Pension or other benefit is calculated or with respect to whom it is payable. Such birth certificate (or other evidence of the date

of birth and parentage) shall be in such form as is required by the Board.

7.2 Proration of Pensions for Partial Months. The first month's Pension shall be prorated to reflect the number of days in the month following the Participant's Termination. The last month's Pension shall be prorated to reflect the number of days preceding death or other termination of the Pension.

7.3 Pension Formulas; Benefit Tables; Interpolations. Pension formulas contained in this Plan, including Tables appended to this Plan document, are designed to express benefits using as factors a Participant's exact age and his exact number of years of Credited Service in full years. Pension formulas and Table rates applicable at intermediate ages (or at earlier or later ages) and lengths of Credited Service shall be determined by the Board by interpolation in accordance with the written directions of the Actuary.

7.4 [Reserved].

7.5 Cost-of-Living Adjustments.

7.5.1 Application to Certain Pensions. On January 1 of each year, a COLA shall be made for the 12 months then beginning with respect to the following Pensions then being paid:

(a) Normal Retirement Pensions, but only for calendar years after the Participant has attained age 67;

(b) Early Retirement Pensions, but only for calendar years after the Participant has attained age 67;

(c) Disability Pensions (applicable only to eligible County-to-City Transfer Employees);

(d) Survivor Pensions to Surviving Spouses, but only for calendar years after the Spouse has attained age 67;

(e) Optional Pensions but only for calendar years after the Participant has attained age 67;

(f) Survivor Pensions to Dependent Children pursuant to 6.1.1.

In addition, COLAs shall also be made in determining the initial amount of certain Survivor Pensions, as more specifically set forth in Article 6.

7.5.2 Amount of COLAs.

7.5.2.1 In General. The COLA to each eligible Pension as of January 1 of each year shall be the lesser of (a) 2% or (b) the percentage increase (if any) in the CPI-U (or, in the discretion of the Board, such other cost of living index utilized from time to time by the Social Security Administration in adjusting benefits under the OASDI provisions of the Social Security Act) during the 12 month period ended on the preceding September 30, as computed by the Actuary. If there is a decrease in the CPI-U (or other appropriate index) for any such 12 month period, the COLA (if any) otherwise applied to eligible Pensions for the second following calendar year shall be reduced (but not below zero) by such percentage decrease; and subsequent COLAs (if any) otherwise applicable to eligible Pensions when calculated on a discrete 12 month period shall be similarly reduced for subsequent calendar years until the cumulative increase in the CPI-U (or other appropriate index) for a subsequent 12 month period exceeds zero.

7.5.2.2 Further Limitations. Notwithstanding the provisions of 7.5.2.1, except as otherwise permitted under IRC 415 as a result of the application of the COLA, no Pension shall at any time exceed 100% of the Participant's Final Average Earnings. Furthermore, for the Plan Year in which the Participant's post-Termination benefit first exceeds 100% of his Final Average Earnings, and for each succeeding Plan Year, the percentage increase in each benefit payment for each such Plan Year shall be the lesser of the COLA or the maximum permissible cost-of-living adjustment prescribed by the Secretary of the Treasury under IRC 415(d)(1)(B) and 415(d)(2).

7.6 Direct Transfer of Eligible Rollover Distribution.

7.6.1 Participant's Election. A Participant shall be permitted to elect to have any Eligible Rollover Distribution transferred directly to an Eligible Retirement Plan specified by the Participant. The Plan provisions otherwise applicable to distributions continue to apply to the direct transfer option. The Participant shall, at the time and in the manner prescribed by the Board, specify the amount to be directly transferred and the Eligible Retirement Plan to receive the transfer. The Participant's direct transfer option is also available to the Participant's surviving spouse (if the surviving spouse is the Participant's Beneficiary) in the same manner as if the surviving spouse were the Participant. The Participant's direct transfer option is further available to any non-spouse Beneficiary, provided that an Eligible Retirement Plan qualified to receive such distribution shall be only an individual retirement account or individual retirement annuity. Except as provided in 7.6.2, any portion of an Eligible Rollover

Distribution which is not so transferred shall be distributed to the Participant (or his Beneficiary).

7.6.2 Automatic Direct Transfer of Mandatory Distribution. If, under the terms of this Plan, a Participant is required to receive a mandatory lump sum distribution greater than \$1,000 qualifying as an Eligible Rollover Distribution and if the Participant does not affirmatively elect to have such distribution paid directly to an Eligible Retirement Plan specified by him or to receive the distribution directly, then the Board shall cause the amount of such Eligible Rollover Distribution to be transferred directly into an individual retirement account (as defined in IRC 408(a)) of the Board's choosing.

7.6.3 Notice and Notice Procedure. Within a reasonable period of time before making an Eligible Rollover Distribution, the Board shall provide a written explanation to the Participant, in accordance with applicable Treasury Regulations:

(a) of the federal income tax provisions under which he may have the distribution directly transferred to an Eligible Retirement Plan and that the automatic distribution by direct transfer applies to distributions to which 7.6.2 applies;

(b) of the requirement to withhold federal income tax on the distribution if it is not directly transferred to an Eligible Retirement Plan;

(c) of the federal income tax provisions under which the distribution will not be subject to federal income tax if transferred to an Eligible Retirement Plan within 60 days after the date on which the Participant receives the distribution;

(d) of the fact that any amount transferred in a direct trustee-to-trustee transfer in accordance with IRC 401(a)(31) shall not be includible in gross income, for federal income tax purposes, for the taxable year of such transfer; and

(e) if the distribution is an automatic direct transfer of a mandatory distribution to an individual retirement account as provided in 7.6.2, of the requirement that, absent an affirmative election by the Participant as to the manner of receipt of his distribution, the Trustee will transfer the amount into an individual retirement account established by the Trustee for the Participant maintained by a therein identified financial institution of its own choosing.

7.7 Limitations on Benefits in Compliance with IRC 415. Notwithstanding any other provision in this Plan to the contrary, the provisions of 7.7 shall apply to limit benefits otherwise payable under the Plan.

7.7.1 Annual Benefit Not to Exceed Maximum Amount Permitted Under IRC 415. The Annual Benefit otherwise accrued by or payable to a Participant for any Limitation Year shall not exceed the limitations of IRC 415 and the regulations promulgated thereunder ("IRC 415 Limitations"). If the benefit a Participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the IRC 415 Limitations, then the rate of accrual will be reduced so that the Annual Benefit shall equal the maximum amount permitted by IRC 415 and the regulations thereunder.

7.7.2 Incorporation by Reference of the IRC 415 Limitations. In accordance with Treasury Regulation 1.415(a)-1(d)(3), the provisions of IRC 415 and the regulations thereunder applicable to a defined benefit plan that is a governmental plan as defined in IRC 414(d), including any default provisions thereunder, are hereby incorporated by reference, except where otherwise expressly provided herein.

7.7.3 Grandfathered Limitations. In the case of an individual who was a Participant in one or more qualified defined benefit plans of the Employer as of the first day of the first Limitation Year beginning after December 31, 1986, the application of 7.7 shall not cause the maximum amount permitted under the IRC 415 Limitations for such individual under all such qualified defined benefit plans to be less than the individual's Accrued Benefit under all such qualified defined benefit plans as of December 31, 1986. The preceding sentence applies only if all such qualified defined benefit plans met the requirements of IRC 415 for all Limitation Years beginning before January 1, 1987.

7.8 Named Beneficiaries.

7.8.1 Designation. Each Participant is entitled to designate one or more natural persons (including classes of natural persons) as Named Beneficiaries of Plan benefits payable after the Participant's death and not required under this Plan to be paid to specific persons. Such Named Beneficiaries may be concurrent Named Beneficiaries and/or primary and contingent Named Beneficiaries. If the Participant designates concurrent Named Beneficiaries, he shall further designate the percentages of benefits to which such concurrent Named Beneficiaries are entitled.

7.8.2 Spousal Rights. Notwithstanding the provisions of 7.8.1, a Participant who has a Spouse at any relevant time shall be automatically deemed to have named his Spouse as the sole primary Named Beneficiary unless the Spouse consents otherwise. Any such consent must be in writing on a form prescribed by the Board and shall be irrevocable (unless both the Participant and his Spouse consent in writing to a revocation), and the Spouse's signature must be witnessed by a designee of the Board. Notwithstanding the foregoing, however, upon the legal dissolution of the Participant's marriage while he is still an Employee, his former Spouse shall automatically cease to be his Named Beneficiary; provided that, subject to the first sentence of this 7.8.2, the Participant shall have the right to rename his former Spouse as a Named Beneficiary after the legal dissolution of the marriage.

7.8.3 Default Named Beneficiaries. If the Participant has not designated any Named Beneficiary of any benefits under this Plan as to which he was entitled to designate a Named Beneficiary, then his Named Beneficiaries shall be deemed to be the following persons, in the order stated:

- (a) His Spouse, if any; and, if not:
- (b) His spouse, if any; and, if not:
- (c) His issue, per stirpes, if any; and, if not:
- (d) His parents, equally, or the survivor, if any; and if not:
- (e) His estate.

ARTICLE 8
FUNDING OF PLAN; PARTICIPANT ACCOUNTS

8.1 Contributions Made to Trust Fund. All contributions to the Plan shall be made to the Trust Fund to be invested and otherwise administered in accordance with the Trust Agreement.

8.2 Employer Contributions. Each year the County shall contribute to the Trust Fund an amount actuarially calculated to be at least sufficient to enable the Plan, Plan A, Plan B, and Plan C to meet current and anticipated near future benefit payment requirements as well as such funds as are necessary to pay all costs and expenses of the Board, including the costs of those County Employees assigned to the Board to accomplish the day to day administration of the System and including the fees of legal counsel, the Actuary, accountants, investment advisors, brokers, consultants, and such other agents engaged by the Board to enable it to perform its duties.

8.3 Participant Contributions.

8.3.1 In General. Except as provided in 4.9, 8.3.2, 8.3.3, and Article 11, and except as provided in Article IV of the Trust Agreement, Participant contributions are not permitted.

8.3.2 Required Contributions.

8.3.2.1 Amount. As a condition of his employment or continued employment on and after the Effective Date, each Active Participant shall contribute to the Fund the Required Contribution.

8.3.2.2 "Pick-Up." Pursuant to IRC 414(h)(2), the County shall make the Required Contribution to the Fund on behalf of the Participant in lieu of its being actually made by the Participant, whose compensation shall be reduced accordingly.

8.3.3 "Make-Up" Contributions Relating to Qualified Military Service. The provisions of 3.1 relating to Credited Service of a Participant during Qualified Military Service shall be applicable only if the Participant makes the payments that would otherwise have been required under this 8.3 (as if the Qualified Military Service had not taken place) within the period beginning on his date of reemployment (or date he again becomes an Active Participant) and ending on the later of the fifth anniversary of the same or the last day of the period whose duration is three (3) times the period of Qualified Military Service, all as determined by the Board. All of such payments

shall be treated as Required Contributions pursuant to 8.3.2 and shall be "picked-up" as all other Required Contributions.

8.4 Participant Contributions Accounts. A Participant Contributions Account shall be maintained by the Plan for each Participant. Each Participant's Participant Contributions Account shall consist of the following elements, all of which shall be fully vested and non-forfeitable at all times:

(a) His Required Contributions; plus

(b) an interest factor added at the end of each calendar quarter calculated by multiplying the Participant Contributions Account balance as of the end of the preceding calendar quarter by .4963%; less

(c) any distributions to the Participant pursuant to 4.6; plus

(d) any repayments of distributions by a Participant pursuant to 4.9.

ARTICLE 9
AMENDMENT AND TERMINATION

9.1 Amendment of Plan. Any provision of the Plan may be amended and the Plan may be restated in its entirety at any time and from time to time. Any such amendment may be prospective or retroactive.

9.1.1 No Reduction of Accrued Benefits; No Contract. No Plan amendment shall reduce the Accrued Benefit of any Participant or Beneficiary. With that single exception, the terms of the Plan shall not be deemed to constitute a contract between any Employer and any Participant or Beneficiary.

9.1.2 Amendment Procedure; Recommendation of the Board. Each proposed Plan amendment or restatement shall be drafted by counsel to the Board (which may be outside counsel or the County Attorney, at the Board's discretion) to maintain consistency in the language and provisions of the Plan. It shall thereafter be presented to the Board at a regular or special meeting in the form of a County resolution. The Board shall vote on whether or not to recommend to the Commission the adoption of the amendment or restatement in the form of the proposed resolution. If the proposed amendment or restatement is voted to be recommended for adoption, the Board shall submit the resolution to the Commission with its recommendation. If the Board refuses to recommend any proposed amendment but any other person desires to present the proposed amendment to the Commission, the Board shall present the proposed amendment to the Commission with the recommendation that it not be adopted.

9.1.3 Actuarial Impact Letter. No proposed Plan amendment or restatement that affects the funding of the Plan or the benefits provided under it may be submitted to the Board or to the Commission without including as an exhibit to the proposed resolution the written determination of the Actuary of the actuarial impact of the amendment or restatement on the financial soundness of the Plan and the Trust Fund.

9.1.4 Adoption by the County Commission. The Commission shall act upon each resolution submitted to it in accordance with its rights and obligations under the County Charter.

9.1.5 Maintenance of Fully Integrated Plan Document. The Board shall at all times maintain in its offices a complete single document of the Plan, with all amendments integrated into the document.

9.2 Termination of Plan. Although the Plan is intended to continue indefinitely, the Commission, by resolution, may at any time (a) close participation in the Plan by excluding subsequently engaged Employees from participation or (b) terminate the Plan. If the Commission fails to approve funding for the Plan to maintain it on an actuarially sound basis for two (2) consecutive Plan Years, the Plan shall terminate by default.

9.2.1 Closing of Participation. If the Plan is closed to subsequently engaged Employees, it shall continue in existence in all respects as to existing Participants and their Survivors and Beneficiaries.

9.2.2 Termination of Plan. If the Plan is terminated, then unless the County shall otherwise amend the Plan pursuant to its terminating resolution, the Board shall prepare a list as follows, in each case without regard to the COLA provisions and in each case as of the termination date:

- (a) Each person then receiving a Pension and the amount and terms of such Pension (including the terms of any Survivor Pension to follow a Retirement Pension);
- (b) Each Terminated Participant and his Accrued Benefit;
- (c) Each Active Participant and his Accrued Benefit. The Accrued Benefit of each Active Participant who would not otherwise have been entitled to a Deferred Vested Retirement Pension had he Terminated the day prior to the termination of the Plan shall, as a result of the termination of the Plan, be so entitled.

The benefits set forth in paragraphs (a) through (c) shall be paid from the Trust Fund, in the manner and at the time set forth in the resolution terminating the Plan, to the extent that there are sufficient assets in the Trust Fund, taking into consideration all other benefits payable from the Trust Fund pursuant to the terms of all other constituent plans. To the extent that there are insufficient assets in the Trust Fund to pay such benefits, the County shall be liable to pay such benefits. All other benefits under the Plan, including Survivor Benefits (other than those with respect to Pensioned Participants) and Disability benefits, shall cease to exist. If, after all benefits from all constituent plans shall have been paid from the Trust Fund, there are assets remaining in the Trust Fund, such assets shall be paid to the County, unless the resolution terminating the Plan provides otherwise.

ARTICLE 10
GENERAL PROVISIONS

10.1 Administration of the Plan. The Plan shall be interpreted and administered under the terms and conditions of that separate County resolution titled "Administration and Trust Agreement of Shelby County, Tennessee, Retirement System," the provisions of which are incorporated herein as if fully set forth herein.

10.2 Headings. The headings and subheadings of the Plan have been inserted for convenience of reference only and, except as specifically referenced, shall be of no force and effect in any construction or interpretation of the provisions of the Plan.

10.3 Gender and Number. In the construction of any provision of the Plan, the masculine, feminine, and neuter genders whenever used herein shall each be deemed to include the other where the context requires. Furthermore, terms in singular form shall be deemed to include the plural where the context requires.

10.4 Legal Incompetence. Except as otherwise provided in Article 6, if any person is a minor, or is in the judgment of the Board otherwise legally incapable of personally receiving and giving a valid receipt for any benefit payment due him thereunder, the Board may, unless and until claim shall have been made by a guardian or conservator of such person duly appointed by a court of competent jurisdiction, direct that such payment or any part thereof be made to the person's spouse, child, parent, brother or sister, determined by the Board to have incurred expense and assumed financial responsibility for the person's welfare. Any payment so made by the Board shall be a complete discharge of any liability under the Plan for such benefit payment.

10.5 Benefits Exempt from Taxation, Execution or Assignment; Exceptions. Any and all benefits paid, accrued or accruing to any Participant or other person participating in the Plan or otherwise entitled to receive benefits under the Plan, and the contributions of Participants as well as by the Employers, and all other assets of the Fund are and shall be exempt from any State, County or municipal tax and shall not be subject to execution, attachment, garnishment or any other legal process whatsoever, except as provided herein or otherwise by law. Any attempted or purported assignment of any such benefits shall not be enforceable in any court, except that levy of

execution granted by a court of competent jurisdiction may be issued against any of the assets described above in the event a Participant does not repay any overpayment of benefits in respect of fraud or as a result of false statements, pursuant to Section 4.5 of the Administration and Trust Agreement of Shelby County, Tennessee, Retirement System, which were paid under the Plan prior to the discovery of such fraud or false statement. Notwithstanding the foregoing, in his application for a Pension or thereafter in the manner prescribed by the Board, each person receiving (or entitled to immediate receipt of) a Pension under this Plan shall have the right to direct the Board to withhold from his Pension the assigned costs of any continuing County welfare benefits he has elected to retain, including but not limited to health, life, dental, and vision insurance, and to pay over such amounts to the County or at its direction.⁵

10.6 Intent to Constitute a Qualified Plan. This Plan is intended to comply with the requirements of IRC 401(a). This Plan shall be interpreted in every respect, and if necessary shall be amended, to so comply.

ARTICLE 11
OVERSIGHT PROVISIONS

PLAN D
SCHEDULE 1

FUNDING RATE;
ACTUARIAL ASSUMPTIONS FOR
CALCULATION OF OPTIONAL PENSIONS,
PRESENT VALUES OF ACCRUED BENEFITS, AND
LIFE ANNUITY EQUIVALENTS

Funding Rate

For the Plan Year beginning on the Effective Date and successive Plan Years, until this Schedule is amended, the Funding Rate is 8%.

Calculation of Optional Pensions, Present Value of Accrued Benefit, and Life Annuity Equivalent

For purposes of calculating Optional Pensions, the Present Value of Accrued Benefit, and Life Annuity Equivalent:

(1) the applicable mortality table is RP2000 projected to 2006; and

(2) the applicable interest rate is 5.88235% $((1.08/1.02) - 1)$, being a factor that takes into consideration the Funding Rate and the built-in 2% COLA.

SCHEDULE 2

INDEX OF RESOLUTIONS AS FOOTNOTED

PLAN D

<u>Amendment</u>	<u>Adoption Date</u>	<u>Item No.</u>
Original Document	06/06/2011	25
1	07/25/2011	22
2	08/27/2012	31
3		
4		

TABLE ERP-S¹

FOR CALCULATING EARLY RETIREMENT PENSIONS

FOR PARTICIPANTS NOT ELIGIBLE FOR PUBLIC SAFETY EARLY RETIREMENT

AGE	PERCENTAGE
67	2.17500%
66	1.97732%
65	1.80197%
64	1.64591%
63	1.50656%
62	1.38175%

TABLE ERP-PS¹

FOR CALCULATING EARLY RETIREMENT PENSIONS

FOR PARTICIPANTS ELIGIBLE FOR PUBLIC SAFETY EARLY RETIREMENT

AGE	PERCENTAGE
55	2.17500%
54	2.01855%
53	1.87538%
52	1.74412%
51	1.62355%
50	1.51264%

TABLE DVRP¹
FOR CALCULATING DEFERRED VESTED RETIREMENT PENSIONS

AGE	PERCENTAGE
67	2.17500%
66	1.97732%
65	1.80197%
64	1.64591%
63	1.50656%
62	1.38175%